

AVMS Directive fully transposed in Cyprus

AVMS transposition

The Audiovisual Media Services Directive (EU) 2018/1808 amending the Audiovisual Media Services 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 (**AVMS Directive**) is now transposed into Cyprus law.

Further to television broadcasts and on-demand audiovisual media services, the new framework also regulates video-sharing platforms. The framework also provides for safeguards regarding the prohibition of hate speech, the protection of minors as users of audio-visual media services to maximise consumer protection and general media accessibility in view of changing market realities.

The national regulatory authority responsible for the enforcement of the framework applicable to audiovisual media service providers and video-sharing platform providers is the Cyprus Radio-Television Authority (**CRTA**).

Video-sharing platforms

Services providing user-generated videos to the general public, for which a video-sharing platform provider does not have editorial responsibility but determines the organisation of such content, including by automatic means or algorithms in particular by displaying, tagging and sequencing, are caught under the new framework as video-sharing platform services. Video-sharing platform providers that fall under the jurisdiction of Cyprus are required to register with the CRTA.

Video-sharing platform providers are required to take appropriate measures to protect the public, including:

- minors, from content that may impair their physical, mental or moral development
- the general public, from content containing incitement to violence or hatred directed against a group of persons or a member of a group
- the general public, from the content the dissemination of which constitutes public provocation to commit a terrorist offence, offences concerning child pornography and offences concerning racism and xenophobia.

Such measures, which must be feasible and proportionate taking the size of the video-sharing platform and the type of service that is provided into account, include, among others, mechanisms for users to flag non-compliant content and effective procedures for user complaints and providing effective media literacy measures and tools and raising users' awareness of those measures and tools. The new framework vests the CRTA with the power to enact additional measures applicable to video-sharing platform providers.

Advertisements and product placement

Audio-visual media service providers and video-sharing platform providers must comply with a set of obligations and restrictions governing the way advertisements (audiovisual commercial communications) are cognitively understood and made accessible.

Audiovisual advertising must be readily recognisable as such, and must not:

- use subliminal techniques
- prejudice respect for human dignity
- include or promote discrimination
- encourage behaviour prejudicial to health or safety
- encourage behaviour grossly prejudicial to the protection of the environment.

Banned audiovisual advertising includes:

- cigarette and tobacco advertising, including for electronic cigarettes and refill containers
- alcohol advertising aimed specifically at minors or encouraging immoderate consumption, among a range of restrictions;
- advertising for prescription medicines and treatment;
- advertising exploiting children's inexperience or credulity and trust in adults, or unreasonably showing minors in dangerous situations.

When it comes to product placement in audiovisual content, media service providers must make clear the occurrence of product placement during the beginning, middle and ending of the advertisement in question, such product placement must comply with time limit requirements and other compliance requirements prescribed under applicable law.

Video-sharing platform providers must comply with the same requirements as those applicable to media service providers where advertisements are marketed, sold or arranged by the video-sharing platform providers. When advertisements are marketed, sold or arranged by the video-sharing platform providers, the latter must take appropriate measures to comply with the said requirements, but account must be taken of the limited control exercised by video-sharing platforms over such advertisements.

Content and increased protection of minors

Specifically, the new framework adds significant obligations for audio-visual media services providers and on-demand providers to ensure safety for minor users. Amongst others, they are obliged to take all necessary measures to ensure that any services which can potentially harm the physical, mental or ethical maturity of minors are neither auditory nor visually made available to them. As such, content containing unjustified content such as violent or pornographic content is strictly prohibited, whilst service providers are obliged to provide the necessary information and to warn viewers in relation to content that may harm the safety of minors.

Furthermore, audio-visual media service providers and video-sharing platforms are prohibited from processing any personal data collected from minors for targeted commercial and/or behavioural advertising purposes. Providers must also introduce further operational and technical tools to ensure minor safety, such as age verification systems, as well as efficient content filtering and password secured systems for content access, in accordance with parental or guardian choice.

Disabled and vulnerable users

Beyond ensuring the safety of minors, the framework adds several obligations on audio-visual media service providers and on-demand services providers in relation to improving accessibility of audio-visual content for disabled and vulnerable groups of users.

In this respect, service providers must firstly ensure that the provision of their services undergoes continuous and increasing compliance with any accessibility processes necessary for vulnerable and disabled users. Emergency news and public announcements as these are made available to the public by service providers shall also be made accessible and easily understandable by disabled people.

Financial contributions / levies

The CRTA is tasked with ensuring that media service providers and video-sharing platforms comply with the applicable framework.

The CRTA may require media service providers under the jurisdiction of the Republic of Cyprus to contribute financially to the production of European works, including via direct investment in content and contribution to national funds. In exercising this power, the CRTA may also require media service providers targeting audiences in the territory of the Republic of Cyprus but established in other EU Member States to make such financial contributions.

Key terms

The following are key concepts under the applicable Cypriot framework:

Audiovisual media service: a service providing programmes, under the editorial responsibility of a media service provider, to the general public, to inform, entertain or educate, using electronic communications networks, either broadcast or on-demand.

On-demand audiovisual media service: an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider.

Video-sharing platform service: a service offering programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, using electronic communications networks, and the organisation of which is determined by the video-sharing platform provider, including by use of automatic means or algorithms, in particular by displaying, tagging and sequencing.

12 February 2022

Anastasios A. Antoniou
Advocate | Partner
Antoniou McCollum & Co.
T: +357 22 053333
anastasios.antoniou@amc.law

Ifigenia Iacovou
Advocate | Senior Associate
Antoniou McCollum & Co.
T: +357 22 053333
ifigenia.iacovou@amc.law