



Department for
Digital, Culture
Media & Sport

Department for Digital, Culture, Media & Sport
100 Parliament Street
Westminster
London, SW1A 2BQ
www.gov.uk/dcms

23 July 2019

Dear stakeholder,

CONSULTATION ON THE UK'S INTERIM APPROACH TO IMPLEMENTING REQUIREMENTS FOR VIDEO-SHARING PLATFORMS IN THE AUDIO-VISUAL MEDIA SERVICE DIRECTIVE 2018

I am writing with regard to the UK Government's proposed approach to implementing the requirements pertaining to video-sharing platforms (VSP) in the EU's revised Audiovisual Media Services Directive (AVMSD) 2018. The revisions to AVMSD reflect the shifting media landscape, particularly the rise in the number of people watching content online, on demand and on different mobile devices.

One of the main changes to AVMSD is the extension of scope to cover VSPs. This revised scope will likely capture audiovisual content on social media sites, video-sharing sites, pornography sites and live streaming services. These services will now need to protect children from harmful content, and protect all citizens from incitement to violence and hatred and from illegal content. These requirements are broadly in line with the proposals for a wider new regulatory framework set out in the government's Online Harms White Paper. Commercial communications on these services also now need to meet specific standards.

The Department for Digital, Culture, Media and Sport (DCMS) published a consultation document on implementing all aspects of the revised AVMSD on 30 May, seeking responses by 22 August. This letter should be read in conjunction with the consultation document which is available at:

<https://www.gov.uk/government/consultations/audiovisual-media-services>.

In the consultation, the Government outlined its intention to incorporate the relevant VSP requirements in the regulatory framework proposed in the recently published Online Harms White Paper. However, we also indicated the possibility of an interim approach ahead of the regulatory framework coming into force to ensure that we meet the deadline for transposing the Directive into Member States' law by September 2020.

We now plan to implement the requirements in the interim by means of statutory instrument - appointing Ofcom as the National Regulatory Authority for VSPs. This is until such a time as an online harms regulator is appointed under the Online Harms legislation.

The Government intends to implement the VSP requirement in the interim in the simplest way possible, adhering to the minimum requirements of the Directive. Noting that this is an interim arrangement and that Ofcom has an existing regulatory framework in place for video-on-demand services, we intend to mirror this existing framework as much as possible in the implementation of the provisions relating to VSPs. However, there remains discretion for Member States in several areas to determine the approach to implementation. We are therefore seeking further views on these areas, in addition to the ongoing consultation, through the consultation document accompanying this letter.

In the previous consultation document, the Government has also invited views on how best to implement the requirement to ensure that VSPs comply with the relevant provisions on commercial communications, including advertising. Noting that the Directive encourages the use of co-regulation by Member States to meet its aims, and that there already exists a co-regulatory framework for advertising on linear broadcast and video on demand in the UK - whereby Ofcom is responsible for regulating commercial communications and has designated the Advertising Standards Authority (ASA) as co-regulator for advertising. We consider this approach further here and will also consider how responses to other questions set out in the consultation document accompanying this letter will affect the regulation of commercial communications on VSPs, such as the companies in scope and the appropriate enforcement powers.

However, the provisions for commercial communications are not expected to be overtaken by later provisions set out in Online Harms implementing legislation. This is because the proposed scope of the online harms regulatory framework is limited to user-generated content. Therefore we expect the Statutory Instrument to continue to apply for these provisions after the interim period for the wider AVMSD implementation comes to an end. DCMS is looking separately at the regulatory landscape for advertising through the Online Advertising Review and this will include looking at what further action may be appropriate in the regulatory treatment of advertising on and offline.

I would be grateful if you could provide responses to the questions in the consultation document accompanying this letter, relating to the interim approach for implementing the VSP requirements, by 5pm on 17 September.

Should you have any questions please contact the AVMS consultation team (avms-consultation@culture.gov.uk) who are working with the Security and Online Harms team at DCMS on this aspect of implementation.

