

WFA priorities for AVMSD transposition

The revised AVMSD recognises advertising self- and co-regulation as effective forms of consumer protection, which complement regulatory frameworks. WFA invites national policymakers to consider the effectiveness of existing industry initiatives, particularly in the area of food, non-alcoholic beverage and alcohol beverage marketing, when transposing the Directive into national law. Clear disclosures of commercial communications and viewer-friendly advertising breaks will help make sure that advertising remains both responsible, entertaining and effective.

1. The AVMSD recognises the value of advertising self- and co-regulation

The revised [Audiovisual Media Services Directive](#) (AVMSD) article 4a states: “Member States shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems.”

Furthermore, the Directive welcomes the use of co-regulation and the fostering of self-regulation through codes of conduct specifically in the area of marketing of foods and beverages high in fat, sugar salt (‘HFSS’) products and the marketing of alcohol beverages.

Advertising self-regulation has numerous advantages for both consumers and businesses, and a very strong tradition in Europe¹. We support the view that advertising self-regulation works best within a regulatory framework and many EU markets recognise advertising self-regulation in national law².

WFA invites Member States to consider recognising the role of advertising standards bodies in national laws governing audio-visual media services.

2. Industry must play an active role in ensuring responsible food and alcohol marketing

Advertisers recognise that food and beverage marketing has an impact on food choices, preferences and behaviours. WFA members also fully subscribe to WHO’s recommendations³ to reduce the impact on children of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt (‘HFSS’). Besides the AVMSD, industry action has also been recommended by the UN⁴ and the European Commission’s Joint Research Center⁵.

The [EU Pledge](#), a WFA initiative launched in 2007, is a commitment by 22 leading food and beverage companies to restrict food advertising to children (except for products which fulfil common nutrition criteria). This has led to a 48% reduction in children’s exposure to products that don’t meet the EU pledge nutrition criteria comparing 2005 against 2014 data. We have recently tightened our nutrition criteria further and committed to robust standards for all types of online advertising, including influencer marketing. We also launched a complaints mechanism to better address any practices that conflict with the spirit of our commitment. National reflections of the EU Pledge have helped bring smaller, local, players on board as well⁶.

Similarly, the alcohol sector has launched the [Responsible Marketing Pact \(RMP\)](#) with the goal of reducing minors’ exposure to alcohol marketing, limiting the appeal of alcohol marketing to minors, and

¹ The French ad standards body, ARPP, has regulated advertising for 80 years. The UK body, the ASA, is 60 years old.

² Spain, France, Italy, Netherlands, United Kingdom, amongst others.

³ WHO’s (2010) [‘Set of recommendations on the marketing of foods and non-alcoholic beverages to children](#) recognises that advertising restrictions may be implemented through a variety of approaches.

⁴ Political declaration of the General Assembly of the United Nations, 27 September 2018: [‘TIME TO DELIVER: Accelerating our response to address NCDs of the health and well-being of present and future generations’](#)

⁵ The European Commission’s Joint Research Center (JRC) [toolkit](#) (2019), supporting Member States in developing and updating marketing codes to decrease minors’ exposure to ‘HFSS’ food and alcohol beverage ads

⁶ Pledges or codes aiming at reducing children’s exposure to ‘HFSS’ ads exist in Belgium, the Netherlands, Ireland, Portugal, Denmark, Poland, Hungary and Romania and Slovenia.

ensuring minors' social media experience is free from alcohol beverage ads. This initiative was launched by the seven leading producers of beer, wine and spirits in the European Union. In order to ensure that ad content does not appeal to minors, signatories of the Pact have developed a comprehensive blacklist of over 50 practices and techniques that are likely to be disproportionately appealing to minors and which they have agreed to never feature in their marketing communications.

WFA encourages Member States to consider the effectiveness of existing industry initiatives, particularly in the area of food and non-alcoholic beverage marketing and alcoholic beverage marketing, when transposing the Directive into national law.

3. AVMSD's extended scope is an opportunity to increase transparency in online advertising

The revised AVMSD intends to address new media realities and streamline rules applying to traditional, linear, services with VOD (video-on-demand) and even VSPs (video-sharing platforms). This is also the case for product placement. The directive considers that this marketing technique can take the form of a "user-generated video" (article 1(m)).

EU law clearly states that commercial communications must be clearly identifiable as such; hidden advertising is illegal⁷. Following influencers' increasing audience reach and engagement, self-regulatory organisations, sometimes in collaboration with government bodies, have developed clear rules on placement, timing and labelling of disclosure for influencer marketing, as well as appropriate wording, with the aim of making disclosure easily identifiable and distinguishable from other information given in the influencer's message. The European Advertising Standards Alliance (EASA) has also developed [Best Practice Recommendations](#), which aim to achieve a high level of coherence regarding remit and application of advertising self-regulation throughout Europe.

WFA stresses the need for robust standards on disclosure and transparency in paid-for brand sponsorships and influencer marketing. Ad standards bodies, as well as social media platforms, have a key role to play.

4. Advertisers welcome flexibility, but cautions against advertising fatigue

The revised AVMSD eases the rules when it comes to quantitative limits for advertising breaks. Broadcasters are moving from a 12 minute-per-hour limit to a two-window limit which allows for advertising to become more concentrated during specific times of the day. The proportion of television advertising spots and teleshopping spots can go up to 20% between 18.00 and 24.00.

While this increased flexibility was a welcome change, WFA is concerned with advertising fatigue if too much advertising is concentrated around prime time.

WFA encourages a collaborative approach to quantitative limits at national level. All relevant stakeholders, representing the interests of advertisers, broadcasters and consumers, should be consulted.

About the WFA:

The World Federation of Advertisers (WFA) makes marketing better by championing more effective and sustainable marketing communications. It is the voice of marketers worldwide, representing 90% of global marketing communications spend – roughly US\$200 billion per annum.

WFA connects the world's biggest brand owners and national advertiser associations in more than 60 markets, bringing together tens of thousands of brands at local level. Together, they create a global network which offers a unique source of leadership, expertise and inspiration.

⁷ Audiovisual Media Services Directive, e-Commerce Directive, Unfair Commercial Practices Directive, Misleading and Comparative Advertising Directive.