

Seldia Contribution to the Call for Evidence on the Evaluation and Update of the Audiovisual Media Services Directive

Seldia welcomes the opportunity to contribute to the call for evidence on the evaluation and update of the Audiovisual Media Services Directive (AVMSD)¹.

Before presenting our recommendations, we would like to provide an introduction to our sector, as we believe that all business models should be taken into account in the assessment and future development of the AVMSD.

Introduction to the direct selling sector

Direct selling is part of the broader retail sector. However, direct selling operates in a unique way by offering personalised services and high-quality products usually without the additional investment costs associated with traditional retail. That is why we believe it is necessary to present our sector and explain how it has evolved in recent years.

Digitalisation has created numerous opportunities for businesses and consumers. Consumers now have access to a wide range of products and services, while businesses can reach a broader audience. The COVID-19 pandemic accelerated the digital transformation of direct selling companies. Direct sellers now conduct product demonstrations not only in people's homes but also through online events and social media interactions.

Influencer marketing has become a popular and effective promotional practice that is expected to grow at an average annual rate of 22.5% between 2024 and 2031². Influencer marketing is particularly relevant for direct selling, as distributors actively promote and sell products online. A key distinction, however, is that our business model relies on independent distributors of products rather than traditional influencers. Most importantly, direct sellers are responsible for promotions both online and offline, and their responsibility must be identical in both channels.

In addition, the role of consumers has also evolved. Today, they play a more active role in their interactions with direct selling companies and direct sellers.

¹ 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.

² See the report by [KBV Research](#), "Europe Influencer Marketing Platform Market", January 2025, available at <https://www.kbvresearch.com/europe-influencer-marketing-platform-market/?utm>.

Recommendations on Influencers

We acknowledge that, since the last revision of the AVMSD, influencers have become established as market players within the audiovisual media services ecosystem. However, this does not imply that they fall outside the scope of existing regulatory frameworks. Influencer marketing is covered by a comprehensive legal framework, including not only the AVMSD, but also the Unfair Commercial Practices Directive (UCPD)³ and the Digital Services Act (DSA)⁴, among others. These instruments contain provisions on transparency requirements, the disclosure of commercial communications, and bans on hidden advertising.

- The European Commission [Influencer Legal Hub](#), [the Guidance on the interpretation and application of the UCPD](#), and the recent [Guidelines on measures to ensure a high level of privacy, safety and security for minors online](#) are great resources that provide clarity on the applicable rules.
- There are industry self-regulation initiatives, training, and certifications that complement the law (e.g. [the ICC Advertising and Marketing Communications Code](#)⁵, [EASA's Best Practice Recommendation on Influencer Marketing](#), [Seldia Guide on disclosure and recognisability of the commercial nature of direct selling social media content](#)⁶, and [adEthics](#)⁷), which should be considered valuable instruments to support compliance with consumer protection rules.

In addition, influencers are also regulated at national level. Although only France⁸ and Spain⁹ have specific legislation on influencers, all Member States have rules that apply to them, as all countries have implemented obligations deriving from EU law. Moreover, in almost all Member States, there are national soft-law instruments issued by self-regulatory bodies, as well as guidelines,

³ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive).

⁴ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act).

⁵ The latest revision of the ICC Code (2024) also applies to influencer marketing, see article 18.

⁶ We plan to integrate Seldia's Guidance on marketing via social media on our Code of Conduct.

⁷[EASA](#) (The European Advertising Standards Alliance) and its network of self-regulatory organisations developed adEthics, to ensure influencers and creators understand the rules and principles of responsible advertising. The programme encompasses two complementary pillars: Training and Certification. By providing training and active oversight, the adEthics Programme supports the development of a more accountable, credible, and trustworthy influencer marketing landscape. Training equips creators with essential knowledge of responsible marketing communication, from disclosure rules to best practices. Certification ensures responsible communication through ongoing monitoring of the trained creators' content. The programme has been implemented in Austria, Belgium, France, Germany, Greece, Hungary, Italy, Romania, Spain, Sweden and The Netherlands. Over 5000 influencers have completed the training.

⁸ LOI n° 2023-451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux.

⁹ Real Decreto 444/2024, de 30 de abril, por el que se regulan los requisitos a efectos de ser considerado usuario de especial relevancia de los servicios de intercambio de vídeos a través de plataforma, en desarrollo del artículo 94 de la Ley 13/2022, de 7 de julio, General de Comunicación Audiovisual.

recommendations, and codes developed by National Authorities¹⁰. However, not all Member States have followed the same approach. For example, several Member States have already categorised influencers as audiovisual media services. These differing approaches create fragmentation and legal uncertainty.

In order to achieve harmonisation, we recommend developing specific guidelines on influencer marketing. For these guidelines:

- We urge the Commission not to put all influencers in the same box. Not all influencers have the same audience size or resources, and therefore it cannot be expected that they comply with the same obligations. We suggest that, for the dedicated guidelines on influencer marketing, the Commission follows the example of Spain¹¹, Italy¹² and the Netherlands¹³, whose specific legislation, guidelines and code of conduct on influencers add/clarify requirements for influencers of “particular relevance”.
- We call on the Commission not to be too restrictive and rigid regarding how influencers display the promotion of products and services. Guidelines should be simple and provide examples to ensure the guidelines are understood and future-proof.

Another option we would like the Commission to carefully consider is any potential disproportionate measures placed on brands to ensure that influencers comply with legal obligations. Any obligations placed on companies in relation to influencers should be proportionate, realistic, consistent with those in the offline environment, and take into account all business models, including direct selling. Sellers are responsible for their promotional activities, not the brands, regardless of the channel used for direct selling.

Concerns about the interplay between the evaluation of the Audiovisual Media Services Directive and the Digital Fairness Act

The upcoming Digital Fairness Act (DFA) may introduce additional provisions to regulate influencer marketing. We are therefore concerned about the potential risk of overlap and duplication with the existing legal framework, notably the AVMSD and its ongoing evaluation, as well as the UCPD. In this context, we strongly recommend close coordination between DG JUST and DG CONNECT to ensure legal clarity and avoid regulatory fragmentation.

¹⁰ To learn about national self-regulatory initiatives and guidelines, a great source is the study by the [European Audiovisual Observatory](#) on national rules applicable to influencers.

¹¹ The Spanish Law on influencers which establishes the requirements to be considered an influencer with significant online presence includes criteria on income (more than 300.000 euros), audience (1 million followers on one platform or 2 million total in several platforms), and number of content (more than 24 videos in the previous year).

¹² The Italian Guidelines and Code of Conduct on influencers apply to influencers who have at least 500,000 subscribers on at least one of the social media or video sharing platforms used, or average of one million monthly views on at least one of the social media or video platforms used.

¹³ In the Netherlands, only creators of content that have 100,000 or more followers are required to register with the Dutch Media Authority.

Conclusion

We acknowledge that the audiovisual media service ecosystem has undergone significant changes since it was last revised. However, we believe that the AVMSD remains fit for purpose. To adapt the current legal framework to market evolution, non-legislative interventions should first be explored.

Non-binding guidance, combined with effective enforcement, should remain the preferred tool to promote legal certainty and consistent interpretation. Legislative intervention should be reserved for addressing clearly identified gaps or unregulated issues, where such action is necessary, proportionate, and supported by robust empirical evidence and data.

Influencer marketing is covered by a comprehensive legal framework, complemented by soft-law instruments, self-regulatory initiatives, training, and certifications. However, as not all Member States have followed the same approach, we recommend developing clear and simple guidelines on influencer marketing to achieve harmonisation.

About Seldia

Seldia advocates for a responsible and ethical consumer-driven direct selling industry in the EU, representing almost 200 European companies that are members of our National Direct Selling Association network. We have been the leading association representing the European Direct Selling sector towards EU institutions since 1968, encompassing 14 leading companies, 24 National Direct Selling Associations, 10 service providers, and 5.4 million independent entrepreneurs across Europe.