

Seldia Contribution to the Public Consultation on the Evaluation and Update of the Audiovisual Media Services Directive

30 April 2026

Seldia welcomes the opportunity to contribute to the public consultation on the Evaluation and Update of the Audiovisual Media Services Directive (AVMSD)¹.

This position paper complements Seldia's response to the public consultation questionnaire by providing a more detailed explanation of our views. However, before presenting our recommendations, we would like to briefly introduce our sector, as we believe that all business models should be properly understood and 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 directly to consumers through independent sellers, usually without the additional investment costs associated with traditional retail. This section outlines characteristics of the sector and its recent evolution.

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. But direct contact, and personal connection between sellers and customers, which is now facilitated by digital tools, are the core of direct selling, regardless of the method.

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 sellers actively promote and sell products online. A key distinction, however, is that our business model relies on independent sellers of products rather than traditional influencers. Unlike traditional influencers, who earn money simply by promoting a product, regardless of whether the consumer makes a purchase, direct sellers only receive payment from the company if the product is sold as a result of their intervention. Therefore, direct sellers are incentivised through actual sales rather than mere promotion. Most importantly, direct sellers, not the brands, are responsible for their promotional activities, both online and offline. Regardless of the channel used, these responsibilities must be identical across all channels.

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](https://www.kbvresearch.com/europe-influencer-marketing-platform-market/?utm), "Europe Influencer Marketing Platform Market", January 2025, available at <https://www.kbvresearch.com/europe-influencer-marketing-platform-market/?utm>.

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.

Recommendations on influencers

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 several pieces of legislation, 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. Apart from existing legislation at EU level:

- 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 as recognised in Article 4a of the AVMSD.

In addition, influencers are also regulated at national level. Although only France⁸ has adopted specific legislation on influencers and Spain⁹ has introduced targeted rules for particular relevance influencers within its audiovisual framework, 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, recommendations, and codes developed by National

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 The European Advertising Standards Alliance ([EASA](#)) and its network of self-regulatory organisations developed adEthics, to ensure influencers and creators understand the rules and principles of responsible advertising. By providing training and active oversight, the adEthics Programme supports the development of a more accountable, credible, and trustworthy influencer marketing landscape. The programme has been implemented in Austria, Belgium, France, Germany, Greece, Hungary, Italy, Romania, Spain, Sweden and The Netherlands. Over 10,000 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.

Authorities¹⁰. However, not all Member States have followed the same approach creating fragmentation and legal uncertainty.

In this context, there is a clear need to harmonise national approaches and provide greater legal clarity regarding the status of influencers under the AVMSD. We therefore support the second option outlined in the public consultation, namely to clarify the status of influencers by explicitly recognising the provision of audiovisual content by influencers within the existing definition of audiovisual media service, where specific criteria are met, such as revenues, audience size or level of activity.

At the same time, it is essential to ensure a proportionate approach. Influencers should not all be put in the same box. Not all influencers have the same reach, resources or impact, and it cannot be expected that they comply with identical obligations. In this regard, we recommend taking into account approaches already developed at national level. In particular, the Commission could draw inspiration from the frameworks in Spain¹¹, Italy¹² and the Netherlands¹³, where legislation, guidelines and codes of conduct introduce tailored requirements for influencers of “particular relevance”.

Another option the Commission should carefully consider is the potential for disproportionate measures to be placed on brands to ensure that influencers comply with legal obligations. Any such obligations should be proportionate, realistic, and consistent with those in the offline environment, while taking into account different business models, including direct selling. They should be clearly tied to situations where a brand has specifically directed, commissioned, or approved content, rather than arising solely from the existence of a contractual or commercial relationship between a brand and an independent seller.

With regard to determining which provisions of the AVMSD should apply in practice, we consider that the rules governing audiovisual commercial communications, in particular Article 9, should apply to influencers where specific criteria are met. At the same time, it is essential to ensure a proportionate approach. Such influencers should not be subject to regulatory obligations that are designed for other categories of service providers and that are not appropriate to the nature and scale of their activities.

We also support clear disclosure of commercial communications, as already required under the AVMSD, the UCPD and the DSA. However, these rules are still not consistently followed in influencer marketing largely due to insufficient enforcement and a lack of awareness of the existing rules. Evidence from EASA’s members shows that training schemes can be highly

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.

effective. In France, compliance rates increased from 32% to 81% between 2020 and 2024, while in the Netherlands, compliance rose from 25% to 60% following training.

In this context, direct selling companies play a role in supporting compliance by providing their sellers with information on applicable legal requirements, including disclosure obligations for commercial communications. If duty-of-care obligations are imposed on brands, we recommend that meaningful weight be given to preventive compliance measures, such as training programs, approved claims libraries, clear policies, and communications with independent sellers, when assessing whether a brand has met its obligations. Companies that invest in proactive compliance infrastructure should not be held to the same standard as those that take no steps at all.

Building on this, clear and simple guidelines at the EU level, complemented by industry support measures, would further enhance understanding and help ensure the effective and future-proof application of the rules.

Audiovisual commercial communications on food supplements

In the public consultation, one of the options proposed in response to a question suggests the use of self- or co-regulatory codes of conduct or guidance by the Media Board to address harmful or sensitive commercial communications that are not specifically regulated by the AVMSD, such as those related to dietary advice, food supplements, plastic surgery or aesthetic treatments.

While the introduction of additional guidelines or codes of conduct for certain categories of commercial communication may appear beneficial, such measures are not necessary in the context of food supplements. This sector is already subject to strict safety and labelling requirements, and food supplements are covered by legislation that protects consumers from unauthorised or misleading claims, including the Nutrition and Health Claims Regulation¹⁴, the Food Supplements Directive¹⁵ and the UCPD. Therefore, only authorised, science-based health claims must be used.

In addition, industry initiatives further support compliance. The International Alliance of Dietary/Food Supplements Associations ([IADSA](#)) has developed [specific guidelines on influencer marketing of food supplements](#), while European and national associations, such as Food Supplements Europe ([FSE](#)) and the European Federation of Associations of Health Product Manufacturers ([EHPM](#)), are actively engaged in developing specialised advertising guidelines for commercial communications on social media as well as training programmes for influencers.

In light of the above, food supplements should not be classified as a category of “sensitive commercial communications” requiring additional intervention. The sector is already subject to

¹⁴ Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods.

¹⁵ Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements.

a comprehensive and well-established legal and self-regulatory framework, which provides clear and stringent rules governing their marketing and promotion.

Interplay with the UCPD

The AVMSD and the UCPD both contribute to the regulation of influencer marketing and complement each other in this respect. However, the upcoming Digital Fairness Act (DFA) may introduce additional provisions targeting influencer marketing within the UCPD. This raises concerns about potential overlap and duplication with the AVMSD, particularly in light of its ongoing evaluation. In this context, close coordination between DG JUST and DG CONNECT is essential.

Conclusions

The audiovisual media services ecosystem has evolved significantly. However, the AVMSD remains broadly adequate. The main challenges identified are not linked to a lack of rules, but rather to fragmentation, inconsistent enforcement and limited clarity in the application of existing provisions.

In this context, priority should be given to strengthening enforcement and providing greater clarity on the application of the AVMSD to influencers to ensure a more harmonised approach across the EU.

Intervention should be limited to clearly identified gaps and remain proportionate. Ensuring consistency across the EU framework, particularly by avoiding duplication with existing instruments, including in the context of the forthcoming DFA, will be essential to maintain legal certainty.

Finally, policy approaches should be proportionate, recognise the diversity of business models and ensure consistency with the offline environment, including direct selling, where independent sellers are directly accountable for their commercial communications.

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, 23 National Direct Selling Associations, 11 service providers, and 5.4 million independent entrepreneurs across Europe. The sector covers a diverse range of product categories, with wellness accounting for 17.7% of sales, followed by cosmetics and personal care (14.2%), household and durables (13.3%), and home improvement (12.1%).