

**Transposition Note: Council Directive 2018/1808 of the European Parliament and the Council**

Transposition Note setting out how Directive (EU) 2018/1808<sup>1</sup>, which amends Directive 2010/13/EU<sup>2</sup> on the coordination of certain provisions laid down by law, regulation or administrative action in the Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, is transposed into UK law. The Audiovisual Media Services Regulations 2020 implement those aspects of the Directive not already covered by UK law.

**The Directive**

Directive 2018/1808/EU of the European Parliament and of the Council of 14 November 2018, which amends Directive 2010/13/EU

**Introduction**

The Audiovisual Media Services Regulations 2020 do not go beyond what is necessary to implement the Directive including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply. All references in the transposition table to legislative provisions are to provisions of the Communications Act 2003 as amended by these regulations unless otherwise stipulated. Specific measures in the implementing legislation were notified to the European Commission on 15 June 2020. There were no formal objections raised by the Commission or Member States and the standstill period for laying legislation ended on 16 September 2020.

<sup>1</sup> <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=celex:32010L0013>

Article number of amending Directive 2018/1808	Article number of Directive 2010/13 which is amended	Objective of amending article	Transposition/Implementation
<b>Article 1(1)(a)</b>	<b>Article 1(1)(a)</b>	Amends the definition of “audiovisual media service” stated in Article 1(a)(i) AVMSD 2010, to clarify that rules for audiovisual media services apply also to a dissociable section of a service that is not an audiovisual media service provider; and that an audiovisual media service is either a television broadcast or an on-demand audiovisual media service.	<p>Section 232(1) of 2003 Act for television licensable content service</p> <p>Section 362 of the 2003 Act, for television broadcasting service</p> <p>Section 368A(1) for on-demand programme service</p> <p>Section 42A of the Broadcasting Act 1990 in relation to a restricted service</p> <p>Section 1(4) of the Broadcasting Act 1996 in relation to digital programme service</p> <p>Section 24(1) of the Broadcasting Act 1996 in relation to digital additional service</p>
<b>Article 1(1)(b)</b>	<b>Article 1(1)(aa)</b>	Inserts definition of “video-sharing platform service”.	Section 368S
<b>Article 1(1)(c)</b>	<b>Article 1(1)(b)</b>	Amends the definition of “programme” with reference to irrespective of length and inclusive of video clips. Removes reference to being comparable to the form and content of television broadcasting.	<p>Section 405(1), see the definition of “programme”.</p> <p>Section 368ZA, provides that Part 4A (on-demand programme services) applies to audiovisual programmes (defined using “programme”, which is defined in section 405).</p> <p>Section 368Z12: see the definition of “video”</p>

<b>Article 1(1)(d)</b>	<b>Article 1(1)(ba), (bb)</b>	Inserts a definition of 'user-generated video' within Article 1(1)(ba) of AVMSD 2010 and insert a definition of 'editorial decision' within Article 1 (1) (bb).	See the definition of "video" in section 368Z12, and references to uploading videos in section 368Z1(4)(f) and (6) and in Schedule 15A.  The definition of 'editorial decision' does not require transposition as it is only relevant as part of jurisdictional criteria for audiovisual media services, and domestic legislation cross-refers to UK jurisdiction under AVMSD - see sections 211(2)(b) and (c) and 368A(1)(e).
<b>Article 1(1)(e)</b>	<b>Article 1(1)(da)</b>	Inserts a definition of 'video-sharing platform provider' within Article 1(1)(da) of AVMSD 2010	Section 368S defines "video-sharing platform service". The references to "person providing" such a service in Part 4B take effect as references to natural and legal persons (see the reference to 'person' in Schedule 1 to the Interpretation Act 1978).
<b>Article 1(1)(f)</b>	<b>Article 1(1)(h)</b>	Amends the definition of an "audiovisual commercial communication" to include user-generated videos.	Audiovisual commercial communications include advertising, sponsorship, teleshopping and product placement. There is no need to define this term in relation to linear television in Part 3 or in relation to on-demand programme services in Part 4A; the obligations relating to audiovisual commercial communications are contained within those Parts, and for linear television also within the Broadcasting Code of Advertising Practice (BCAP) <sup>3</sup> , and the Code on the Scheduling and Amount of Television Advertising (COSTA) <sup>4</sup> (both are statutory codes). For on-demand programme services Part 4A is complemented by the rules set out in Appendix 2 of the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code) (a non-statutory code) <sup>5</sup> . Codes will be updated to reflect requirements in the revised AVMSD.

<sup>3</sup> <https://www.asa.org.uk/codes-and-rulings/advertising-codes/broadcast-code.html>

<sup>4</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0014/32162/costa-april-2016.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0014/32162/costa-april-2016.pdf)

<sup>5</sup> <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>

			See the definition of “audiovisual commercial communication” in relation to video-sharing platform services in section 368Z12, which uses the term “video” (see the definition of that term, also in section 368Z12) due to the more limited provision in the Directive in relation to audiovisual commercial communications for these services.
<b>Article 1(1)(g)</b>	<b>Article 1(1)(k)</b>	Amends the definition of “sponsorship”, to apply to contributions by video-sharing platform services and for the financing of video-sharing platform services or user-generated videos.	Definition added in relation to video sharing platform services in section 368Z12 (interpretation of Part 4B).
<b>Article 1(1)(h)</b>	<b>Article 1(1)(m)</b>	Amends the definition of “product placement” to include product placement in a user-generated video.	Definition added in relation to video sharing platform services in section 368Z12.

<b>Article 1(2)</b>		Changes the title of Chapter II from “General Provisions” to “General Provisions For Audiovisual Media Services”.	Not transposed - editing of title of Chapter within Directive 2010/13 only.
<b>Article 1(3)(a)</b>	<b>Article 2(3)(b)</b>	Adds secondary jurisdictional criteria to help define 'editorial decisions' and reference to a significant part of the workforce in relation to the programme-related activity - relates only to audiovisual media services (linear television and on-demand programme services).	Not transposed, domestic legislation cross-refers to the jurisdictional criteria in AVMSD, see see sections 211(2)(b) and (c) and 368A(1)(e).
<b>Article 1(3)(b)</b>	<b>Article 2(5a), (5b), (5c)</b>	<p>Inserts paragraphs (5a), (5b) and (5c) into Article 2.</p> <p>Article 2(5a) requires Member States to ensure AVMS providers notify regulatory authorities of changes affecting the establishment of jurisdiction.</p> <p>Article 2(5b) AVMSD 2010 requires Member States to maintain a list of AVMS providers under their jurisdiction. It also states the criterion on which jurisdiction is based and a requirement for the European Commission to maintain lists in a centralised database and resolve inconsistencies.</p> <p>Article 2(5c) specifies practicalities for interaction between Member States and the EU Commission as well as duties for the EU Commission and ERGA.</p>	<p><u>Article 2(5a), (5b)</u> For linear television, section 4(1)(c) of the Broadcasting Act 1990 allows Ofcom to include a condition in TV licences in relation to information it requires for the purposes of carrying out its functions. The Secretary of State will formally notify Ofcom of relevant international obligations under section 335. Licence holders will be obliged to inform Ofcom of relevant changes by virtue of Ofcom’s ability to impose licence conditions to this effect.</p> <p>Section 335B is inserted in the 2003 Act to implement the obligation for Ofcom to maintain a list of providers and to notify the EU Commission of the list and of updates to it, with respect to linear broadcasters.</p> <p>For on-demand programme services, 368BA(4) is inserted in the 2003 Act for the obligation of service providers to notify Ofcom of relevant changes, and section 368BZA for the obligation on Ofcom to maintain a list of providers and to notify the EU Commission of the list and of updates to it.</p> <p><u>Article 2(5c)</u> Not transposed - function of the EU Commission</p>

<b>Article 1(4)</b>	<b>Article 3</b>	This Article amends conditions under which the Member States can apply for a derogation from Country of Origin rules, as well as associated procedures.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(1)</b>	Member States must ensure freedom of reception on their territory of audiovisual media services from other Member States and not restrict retransmissions.	Not new provision - see section 211.
<b>Article 1(4)</b>	<b>Article 3(2)</b>	Member States can choose to derogate from Article 1(4)(1) if a media service provider is a risk to public health and/or infringes Article 6(1)(a)/Article 6(a)(1).  Derogation subject to the conditions listed in Article 1(4)(2a), (2b), (2c) and (2d).	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(2)(a)</b>	The media service provider must have engaged in the conduct above on at least two prior occasions in the previous 12 months (one in the case of public provocation to commit a terrorist offence)	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(2)(b)</b>	Member State must notify the media service provider, the Member State having jurisdiction over that provider and the Commission in writing of the alleged infringement.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(2)(c)</b>	Member State must respect the media service provider's right of defence and give the provider an opportunity to express its views.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.

<b>Article 1(4)</b>	<b>Article 3(2)(d)</b>	Derogation is subject to condition that consultations with Member State holding jurisdiction over a media service provider and the Commission did not reach an agreement within one month of Commission's receipt of the notification referred to in point (b).	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(3)</b>	Member States can provisionally derogate from Article 4(1) if an audiovisual media service infringes Article 6(1)(b) or causes a serious risk to public security.  Derogation subject to the conditions listed in Article 1(4)(3a) and (3b).	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(3)(a)</b>	Member States can provisionally derogate from Article 4(1) if the media service provider has at least two instances of conduct described in Article 4(3) in the previous 12 months.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(3)(b)</b>	To provisionally derogate, Member States must also notify the media service provider, the Member State having jurisdiction over that provider and the Commission in writing of the alleged infringement.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(4)</b>	Paragraphs 2 and 3 shall be without prejudice to any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the media service provider concerned.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.

<b>Article 1(4)</b>	<b>Article 3(5)</b>	In urgent cases and within one month after the alleged infringement, Member States may derogate from the conditions laid down in points (a) and (b) of paragraph 3.  The Commission and the Member State holding jurisdiction must be notified and the Member State must justify the urgency.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(6)</b>	Member States have one month to provide the information necessary for the Commission to take a decision relating to paragraph 2 or 3. A decision on the case will be suspended until the information is provided.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(4)</b>	<b>Article 3(7)</b>	Member States and Commission to share best practices relating to this Article.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(5)</b>	<b>Article 4</b>	This Article amends Article 4 to update cooperation procedures for dealing with stricter measures in targeted MS.	See section 335A concerning cooperation with Member States. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 1(5)</b>	<b>Article 4(1)</b>	Member States may require media service providers in their jurisdiction to comply with more detailed or stricter rules being coordinated by this Directive.	Not transposed - specifies that Member States are free to enforce stricter measures than minimum standards specified in the Directive.

<b>Article 1(5)</b>	<b>Article 4(2)</b>	<p>A Member State can address issues with certain media service providers, by contacting the Member State with jurisdiction over them and meeting conditions stated in Article 4(2)(a) and (2)(b).</p> <p>Article 4(2)(a) requires that the Member State has adopted more detailed or stricter rules of general public interest</p> <p>Article 4(2)(b) requires that the Member State assesses that a media service provider under the jurisdiction of another Member State provides an audiovisual media service which is wholly or mostly directed towards its territory</p>	<p>Not transposed but see section 335A concerning cooperation with Member States. Concerns practical matters for the UK in dealing with the European Commission and other Member States.</p>
<b>Article 1(5)</b>	<b>Article 4(3)</b>	<p>Member State concerned may adopt appropriate measures against the media service provider concerned where it assesses that the results achieved through the application of paragraph 2 are not satisfactory; and it has adduced evidence showing that the media service provider in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules.</p>	<p>Not transposed. This is a practical matter for assessment if an AVMS provider is established in another Member State to circumvent stricter rules</p>

<b>Article 1(5)</b>	<b>Article 4(4)</b>	<p>Member States can adopt appropriate measures against a media service provider if conditions listed in Article 1(5)(3)(a), (b) and (c) are met.</p> <p>Article 1(5)(3)(a) requires notification to the Commission and the Member State in which the media service provider is established of the intention to take such measures while substantiating the grounds on which they are based.</p> <p>Article 1(5)(3)(b) requires that the Member State has respected the rights of defence of the media service provider concerned and has given that provider the opportunity to express its views.</p> <p>Article 1(5)(3)(c) requires that the Commission decides that the measures are compatible with Union law</p>	Not transposed. This is a practical matter for assessment if an AVMS provider is established in another Member State to circumvent stricter rules
<b>Article 1(5)</b>	<b>Article 4(5)</b>	<p>Within three months of the receipt of the notification provided for in point (a) of paragraph 4, the Commission shall take the decision on whether those measures are compatible with Union law.</p> <p>If the Commission lacks the necessary information, the Member State must provide this within one month of notification.</p>	Not transposed. This is a practical matter for process if an AVMS provider is established in another Member State to circumvent stricter rules
<b>Article 1(5)</b>	<b>Article 4(6)</b>	Member States must legally ensure media service providers in their jurisdiction comply with this Directive.	General duty on member States to ensure compliance by media service providers with the Directive - see Parts 3 and 4A. See also the Secretary of State's power under section 335 to notify international obligations to Ofcom, for them to secure compliance.
<b>Article 1(5)</b>	<b>Article 4(7)</b>	Directive 2000/31/EC shall apply unless provided for in this Directive. This Directive will take precedence in the event of a conflict with Directive 2000/31/EC.	Not transposed. Directive 2000/31 is the E-Commerce Directive and is transposed, so far as required.

<b>Article 1(6)</b>	<b>Article 4a(1)</b>	<p>This Article inserts Article 4a, which requires Member States to 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.</p> <p>Those codes shall:</p> <ul style="list-style-type: none"> <li>(a) be broadly accepted by the main stakeholders</li> <li>(b) clearly and unambiguously set out their objectives</li> <li>(c) provide for regular, transparent and independent monitoring and evaluation</li> <li>(d) provide for effective enforcement.</li> </ul>	<p>The UK already encourages co-regulation and fosters self-regulation. Ofcom has contracted-out its advertising standards codes function to the Broadcast Committee of Advertising Practice Limited (BCAP) under the Contracting Out (Functions Relating to Broadcast Advertising) and Specification of Relevant Functions Order 2004. Advertising is co-regulated for linear TV services, and self-regulated in conjunction with the Advertising Standards Authority for on-demand programme services. Ofcom has the ability to set up a co-regulatory body for the regulation of on-demand programme services under section 368B of the Act.</p>
<b>Article 1(6)</b>	<b>Article 4a(2)</b>	<p>Union codes of conduct can be created by media service providers, video-sharing platform service providers and representing organisations. Member States and the Commission may facilitate the development of Union codes of conduct.</p>	<p>Not transposed. Union level initiative</p>
<b>Article 1(6)</b>	<b>Article 4a(3)</b>	<p>Member States may require media service providers and regulatory authorities in their jurisdiction to comply with more detailed or stricter rules than Union codes of conduct. Such rules must be reported to the Commission.</p>	<p>Not transposed. Maintains minimum harmonisation rules.</p>
<b>Article 1(7)</b>		<p>Amends the title of Chapter III to: 'PROVISIONS APPLICABLE TO AUDIOVISUAL MEDIA SERVICES'</p>	<p>Not transposed - title of section</p>

<b>Article 1(8)</b>	<b>Article 5(1)</b>	Replaces Article 5 of the 2010 Directive and concerns accessibility to information for recipients regarding the providers audiovisual services. Media service providers must make accessible the information listed in Article 5(1)(a) to (d) to recipients of the service. The new requirement is that of specifying the member State which has jurisdiction over the relevant service provider.	The Secretary of State has power to notify Ofcom of international obligations of the UK under section 335, and under that section Ofcom has the power to impose licence conditions to fulfil such obligations. Ofcom requires that the relevant information be made public by service providers as part of licence conditions.  See section 368D(2) in relation to on-demand programme services
<b>Article 1(8)</b>	<b>Article 5(2)</b>	Member States can adopt legislative measures for media service providers to make accessible information concerning their ownership structure, including the beneficial owners.	Optional measure, not transposed.  There are provisions concerning disclosure requirements under company law, but these are not specific to media service providers (see the Companies Act 2006 and related legislation)
<b>Article 1(9)</b>	<b>Article 6(1)(a)</b>	Without prejudice to the obligation of Member States to respect and protect human dignity, Member States must ensure that audiovisual media services provided under their jurisdiction do not contain incitement to violence or hatred directed against an individual or group of persons based on any of the grounds referred to in Article 21 of the Charter.	Section 319 and the Broadcasting Standards Code (Section 3) for linear television.  For on-demand programme services, section 368E(1).
<b>Article 1(9)</b>	<b>Article 6(1)(b)</b>	Without prejudice to the obligation of Member States to respect and protect human dignity, Member States must ensure that audiovisual media services provided under their jurisdiction do not contain public provocation to commit a terrorist offence as set out in Article 5 of Directive (EU) 2017/541.	Section 319 of 2003 Act and the Broadcasting Standards Code (Section 3) for linear television.  For on-demand programme services, section 368E(2), (3)(za).

<b>Article 1(9)</b>	<b>Article 6(2)</b>	Measures mentioned for the purposes of this Article must be necessary and proportionate, respecting the rights and observing the principles set out in the Charter.	Not transposed, limitations clause - will be taken account of in Ofcom guidance and in relation to decisions on regulatory action by Ofcom
<b>Article 1(10)</b>	<b>Article 6a(1)</b>	Member States must ensure minors do not have easy access to content that may impair their physical, mental or moral development. The most harmful content must be subject to the strictest measures.	Section 319(2)(a) of the 2003 Act and the Broadcasting Standards Code (Section 1) for linear television.  Section 368E(4) and (4A) for on-demand programme services.
<b>Article 1(10)</b>	<b>Article 6a(2)</b>	Personal data of minors collected for Article 1 (10)(1) must not be used for commercial purposes.	Not transposed, this is in line with the Data Protection Act 2018 and Information Commissioner's Office's Age Appropriate Design Code <sup>6</sup> (Section 12)
<b>Article 1(10)</b>	<b>Article 6a(3)</b>	Member States must ensure media service providers have a system to describe the potentially harmful nature of content to all viewers.	Section 319(2)(a) of the 2003 Act plus the Broadcasting Standards code ensure that minors are protected. This is done through various requirements in the standards codes, including scheduling (9pm watershed) and content information.  Section 368E(4) and the appropriate measures taken under that section for on-demand programme services. Statutory guidance must be produced by Ofcom in relation to appropriate measures under section 368C(5).
<b>Article 1(10)</b>	<b>Article 6a(4)</b>	The Commission shall encourage media service providers to exchange best practices on co-regulatory codes of conduct. Self-regulation may be fostered through Union codes.	Not transposed. Requirement for the European Commission and option to foster self-regulation through Union codes.

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<sup>6</sup> <https://ico.org.uk/media/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services-2-1.pdf>

<b>Article 1(11)</b>	<b>Article 7</b>	This Article amends Article 7 in the 2010 Directive. It concerns making services accessible to those with a hearing or visual impairment.	Not transposed, title of Article
<b>Article 1(11)</b>	<b>Article 7(1)</b>	Member States must ensure, without undue delay, that services provided are made continuously and progressively more accessible to persons with disabilities using proportionate measures.	<p>For linear television, section 303 and the Code<sup>7</sup> produced by Ofcom under that section giving guidance and imposing obligations on providers with regards to television services for people with disabilities. Compliance with Ofcom's Code on Television Access Services is a licence condition for linear television services.</p> <p>For on-demand programme services, the power to make regulations under section 368BC in relation to access for people with disabilities. Regulations will be made under this section in due course - there have been two consultations to prepare for this<sup>8</sup>.</p>

<sup>7</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0035/179954/tv-access-services-code.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0035/179954/tv-access-services-code.pdf)

<sup>8</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/odps-accessibility> and <https://www.ofcom.org.uk/consultations-and-statements/category-1/making-on-demand-services-accessible>

<b>Article 1(11)</b>	<b>Article 7(2)</b>	Member States must ensure media service providers regularly report to national regulatory authorities on the implementation of measures.	<p>Section 303 and the Code issued under that section contain the requirements for accessibility for linear television; Ofcom has the power to require information via the ability to impose licence conditions (see also section 335 in relation to international obligations of the UK notified by the Secretary of State to Ofcom, and section 4(1)(c) of the Broadcasting Act 1990).</p> <p>In relation to on-demand programme service providers, section 368BC gives power to the Secretary of State to impose requirements by way of regulations for the purpose of ensuring that services are accessible to people with disabilities, including in subsection (2)(d) power to require reporting by providers annually on the accessibility of their services. Regulations will be made in due course.</p>
<b>Article 1(11)</b>	<b>Article 7(3)</b>	Member States must encourage media service providers to develop accessibility action plans for persons with disabilities. Plans should be communicated to national regulatory authorities/bodies.	<p>For linear television, section 303(1A).</p> <p>For on-demand programme services, section 368C(2) and section 368D(3)(zza).</p>
<b>Article 1(11)</b>	<b>Article 7(4)</b>	Member States must designate a single point of contact for providing information and receiving complaints in regards to accessibility issues in Article 1(11).	<p>For linear television, section 307A. Ofcom considers every complaint related to compliance by licensed services.</p> <p>For on-demand programme services, section 368C(2A).</p>
<b>Article 1(11)</b>	<b>Article 7(5)</b>	Member States must ensure emergency information in natural disaster situations is made available to the public through the media services and is accessible to persons with disabilities.	Section 336(3), updated to reflect that Secretary of State order for emergency communications is required to be accessible.

<b>Article 1(12)</b>	<b>Article 7a</b>	Member States may take measures to ensure the prominence of audiovisual media services of general interest.	Not transposed. Option for Member States to ensure the prominence of audiovisual media services of general interest.
<b>Article 1(12)</b>	<b>Article 7b</b>	Member States must specify regulatory measures taken to ensure audiovisual media services are not overlaid for commercial purposes or modified.	Sections 347A to 347F.
<b>Article 1(13)</b>	<b>Article 9(1)</b>	<p>Member States must ensure audiovisual commercial communications provided by media service providers must comply with the requirements in Articles:</p> <p>(9)(1)(a): audiovisual commercial communications shall be readily recognisable as such; surreptitious audiovisual commercial communication shall be prohibited;</p> <p>(9)(1)(b): audiovisual commercial communications shall not use subliminal techniques</p> <p>(9)(1)(c): audiovisual commercial communications shall not: (i) prejudice respect for human dignity; (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation; (iii) encourage behaviour prejudicial to health or safety; (iv) encourage behaviour grossly prejudicial to the protection of the environment;</p> <p>(9)(1)(d): all forms of audiovisual commercial communications for cigarettes and other tobacco products, as well as for</p>	<p>For linear television, see sections 319(2)(a) and (fa) to (j) and 321 and Schedule 11A, the Broadcasting Code (Section 9) and the ASA Code of Broadcast Advertising (Section 4, 10, 11, 19).</p> <p>For on-demand programme services, see sections 368F to 368H and the ASA non-broadcast code (Appendix 2).</p>

		<p>electronic cigarettes and refill containers shall be prohibited</p> <p>(9)(1)(e): audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages</p> <p>(9)(1)(f): audiovisual commercial communications for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited</p>	
<b>Article 1(13)</b>	<b>Article 9(2)</b>	Audiovisual commercial communications for alcoholic beverages in on-demand audiovisual media services must comply with the criteria in Article 22, except for sponsorship and product placement.	Section 368F.
<b>Article 1(13)</b>	<b>Article 9(3)</b>	Member States must encourage co-regulation and foster self-regulation regarding inappropriate audiovisual commercial communications for alcoholic beverages.	<p>The UK already complies. See the UK Code for Broadcast Advertising (made pursuant to sections 319 and 321) for linear television.</p> <p>Advertising in the UK is overseen by the Advertising Standards Authority (ASA), the industry's independent regulator.</p> <p>In the case of TV and radio, the ASA enforces the UK Code of Broadcast Advertising (BCAP Code), through a system of co-regulation with Ofcom. They incorporate all relevant legislation and set standards for accuracy and honesty to which advertisers must adhere, including for alcoholic beverages.</p>

<b>Article 1(13)</b>	<b>Article 9(4)</b>	Member States must encourage co-regulation and foster self-regulation towards inappropriate audiovisual commercial communications, included in or accompanying children programmes, for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular, fat, trans-fatty acids, salt or sodium and sugars.	The UK already complies. These are contained under the UK Code for Broadcast Advertising (made pursuant to sections 319 and 321 of the 2003 Act), for linear television.  Section 368C(4) for on-demand programme services.  In the case of TV and radio, the ASA enforces the UK Code of Broadcast Advertising (BCAP Code), through a system of co-regulation with Ofcom. They incorporate all relevant legislation and set standards for accuracy and honesty to which advertisers must adhere, including for advertisements of foods aimed at children.
<b>Article 1(13)</b>	<b>Article 9(5)</b>	Member States and the Commission may foster self-regulation, through Union codes of conduct, for the purposes of this Article.	Not transposed, Union level initiative
<b>Article 1(14)(a)</b>	<b>Article 10(2)</b>	Audiovisual media services or programmes shall not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers	For linear television such sponsorship is banned in rule 9.16 of the Broadcasting Code (the Code is made under sections 319 and 321).  For on-demand programme services, section 368G.
<b>Article 1(14)(b)</b>	<b>Article 10(4)</b>	News and current affairs programmes shall not be sponsored. Member States may prohibit the sponsorship of children's programmes. Member States may choose to prohibit the showing of a sponsorship logo during children's programmes, documentaries and religious programmes.	For linear television, see rule 9.15 of the Broadcasting Code.  For on-demand programme services, section 368G.
<b>Article 1(15)</b>	<b>Article 11</b>	(1) This Article shall apply only to programmes produced after 19 December 2009.  (2) Product placement shall be allowed in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes and	For linear television, Ofcom Standards Code (Section 9) made under sections 319 and 321 and Schedule 11A.  For on-demand programme services, section 368H.  With regards to requirements for product placement: Schedule

		<p>children's programmes.</p> <p>(3) Programmes that contain product placement shall meet the following requirements: (a) their content and organisation within a schedule shall under no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider; (b) they shall not directly encourage the purchase or rental of goods or services; (c) they shall not give undue prominence to the product in question; (d) viewers shall be clearly informed of the existence of product placement by an appropriate identification at the start and at the end of the programme, and when a programme resumes after an advertising break</p> <p>(4) In any event programmes shall not contain product placement of: (a) cigarettes and other tobacco products, as well as electronic cigarettes and refill containers, or product placement from undertakings whose principal activity is the manufacture or sale of those products; (b) specific medicinal products or medical treatments available only on prescription in the Member State under whose jurisdiction the media service provider falls.';</p>	11A for linear television and section 368H for on-demand programme services.
<b>Article 1(16)</b>		The title of Chapter IV of the 2010 Directive is deleted.	Not transposed
<b>Article 1(17)</b>	<b>Article 12</b>	Article 12 of the 2010 Directive is deleted.	Not transposed
<b>Article 1(18)</b>	<b>Article 13(1)</b>	Member States must ensure media service providers under their jurisdiction secure at least a 30% share of European works in their catalogues and ensure prominence of those works.	Section 368CB

<b>Article 1(18)</b>	<b>Article 13(2)</b>	Member States may require media service providers targeting audiences in their territories, but established in other Member States to make financial contributions.	Not transposed, optional measure
<b>Article 1(18)</b>	<b>Article 13(3)</b>	Financial contribution must be based only on the revenues earned in the targeted Member States. When imposing financial contributions, the Member State must take into account financial contributions imposed by other Member States.	Not transposed, optional measure
<b>Article 1(18)</b>	<b>Article 13(4)</b>	Member States must report to the EU Commission by 19 December 2021 and every two years thereafter on implementation of Article 13 (1) and (2).	Not transposed, obligation on Member States
<b>Article 1(18)</b>	<b>Article 13(5)</b>	The EU Commission must report to European Parliament and to the Council on the application of Article 13 (1) and (2).	Not transposed, obligation on the EU Commission
<b>Article 1(18)</b>	<b>Article 13(6)</b>	The obligations stated in Article 13 (1) and (2) will not apply to media service providers with a low turnover or low audience. Member States may waive obligations where it would be impractical or unjustified by the nature of theme of the audiovisual media services.	Section 368CB(3) and (4)
<b>Article 1(18)</b>	<b>Article 13(7)</b>	The Commission will issue guidelines regarding the calculation of the share of European works and the definition of low audience and low turnover.	Section 368CB(8) makes reference to the guidance
<b>Article 1(19)</b>	<b>Article 19(2)</b>	Isolated television advertising and teleshopping slots are only allowed in sports events.	Not transposed. The Code on the Scheduling of Television Advertising <sup>9</sup> replicates the existing article without amendment and there are no further references to isolated television advertising that might forbid it outright.

<sup>9</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0014/32162/costa-april-2016.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0014/32162/costa-april-2016.pdf)

<b>Article 1(20)</b>	<b>Article 20(2)</b>	The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising, teleshopping, or both, once for each scheduled period of at least 30 minutes. The transmission of children's programmes may be interrupted by television advertising once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. The transmission of teleshopping shall be prohibited during children's programmes. No television advertising or teleshopping shall be inserted during religious services.	Ofcom produces the Code of Scheduling of Television Advertising to set the maximum amount of advertising and the UK currently has stricter requirements. This fulfills Ofcom's general obligations as well as obligations set out in sections 319, 321 and 322, which also provide relevant powers.
<b>Article 1(21)</b>	<b>Article 23</b>	Television advertising spots and teleshopping spots must not exceed 20% of the time between 6.00 and 18.00.  Article (23)(1) does not apply in the circumstances listed in: (a) Announcements made by the broadcaster in connection with its own programmes and products. (b) Sponsorship announcements. (c) Product placements (d) Neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots	Ofcom produces the Code of Scheduling of Television Advertising to set the maximum amount of advertising and the UK currently has stricter requirements. This fulfills Ofcom's general obligations as well as obligations set out in sections 319, 321 and 322, which also provide relevant powers.
<b>Article 1(22)</b>		Chapter VIII of the 2010 Directive is deleted.	Not transposed
<b>Article 1(23)</b>	<b>28a</b>	Inserts 'Chapter IXA Provisions Applicable to Video-Sharing Platform Services'	Transposition outlined below
<b>Article 1(23)</b>	<b>28a(1)</b>	Aligns establishment criteria of video-sharing platforms with the E-commerce Directive 2000/31/EC	Section 368S(2)(d)

<b>Article 1(23)</b>	<b>28a(2)</b>	This provision sets out the jurisdiction hierarchy based on where the parent, then subsidiary, then other undertaking in a group is established. Sub paragraphs clarify the meanings of the terms used in the hierarchy	Section 368S(2)(d)
<b>Article 1(23)</b>	<b>28a(3)</b>	This paragraph sets further hierarchy subsequent to the criteria in 28a(2) for jurisdiction when parent and subsidiary companies are in different Member States	Section 368S(2)(d)
<b>Article 1(23)</b>	<b>28a(4)</b>	This paragraph sets out that jurisdiction should be determined where the first of the above mentioned entities was established, provided there remains an active economic link in the Member State	Section 368S(2)(d)
<b>Article 1(23)</b>	<b>28a(5)</b>	This cross refers to the e-commerce directive (2000/31/EC) such that for this purpose of this Directive articles 3, 12 to 15 of the e-commerce directive applies to video sharing platforms. This retains limited platform liability.	Part 4B does not breach the e-commerce directive.
<b>Article 1(23)</b>	<b>28a(6)</b>	Member States are required to maintain the list of video-sharing platforms and the criteria for jurisdiction that is to be communicated to the Commission.	Section 368U
<b>Article 1(23)</b>	<b>28a(7)</b>	If disputes occur the Commission will contact disputing Member States to find a solution and may consult ERGA	Not transposed, obligation on Commission
<b>Article 1(23)</b>	<b>28b(1)</b>	Header to set out a new set of measures pertaining to video-sharing platforms and the need for protection from harmful content	Not transposed, title of the section

<b>Article 1 (23)</b>	<b>28b(1)(a)</b>	Obligation on video-sharing platforms to protect minors	Section 368Z1(1)(a), Schedule 15A
<b>Article 1 (23)</b>	<b>28b(1)(b)</b>	Obligation on video-sharing platforms to protect the public from content containing incitement to violence or hatred	Section 368Z1(1)(b), Schedule 15A
<b>Article 1 (23)</b>	<b>28b(1)(c)</b>	Obligation on video-sharing platforms to protect the public from content the dissemination of which constitutes an activity which is a criminal offence under Union law, namely public provocation to commit a terrorist offence, offences concerning child pornography and offences concerning racism and xenophobia	Section 368Z1(1)(c), Schedule 15A
<b>Article 1 (23)</b>	<b>28b(2)</b>	<p>First sub-paragraph - this requires that video-sharing platform providers comply with article 9 (1) for commercial communications that are marketed, sold, or arranged by the video-sharing platform.</p> <p>Second sub-paragraph - this requires that video-sharing platform providers take appropriate measures to comply with Article 9(1) for audiovisual commercial communications that are not marketed, sold or arranged by those providers.</p> <p>Third sub-paragraph - this requires video-sharing platform providers to inform users where user-generated content contains audiovisual commercial communications, provided that commercial communications were declared when the content was uploaded.</p> <p>Fourth sub-paragraph - requirement for Member States to encourage the use of co-regulation and foster self-regulation aiming to reduce exposure of children to advertising for high fat, salt and sugar foods.</p>	<p>First sub-paragraph: section 368Z.</p> <p>Second sub-paragraph: section 368Z1</p> <p>Third sub-paragraph: section 368Z1(6) and paragraph 5 of Schedule 15A</p> <p>Fourth sub-paragraph: Section 368X(2)</p>

<b>Article 1 (23)</b>	<b>28b(3)</b>	First and second sub-paragraphs outline how appropriate measures to protect minors and the general public should be determined and applied.  Retains the requirement to comply with the e-commerce Directive 2000/31/EC to ensure that any measures do not lead to any ex-ante control measures or upload filtering	Section 368Z1(4), which sets out what factors are to be taken into account when determining which measures are proportionate and practicable.  Section 368Z1(3) in relation to ex-ante control measures or upload filtering.
<b>Article 1 (23)</b>	<b>28b (3)(a)-(j)</b>	List of appropriate measures for VSPs to protect minors and the general public	Schedule 15A
<b>Article 1 (23)</b>	<b>28b(3) continued</b>	Minor's personal data not to be further processed for commercial purposes when collected for age-verification.	This requirement is met under the Data Protection Act 2018 and via the Information Commissioner's Office's Age Appropriate Design Code
<b>Article 1 (23)</b>	<b>28b(4)</b>	Member States shall encourage the use of co-regulation for implementation of video-sharing platform measures	Section 368T enables Ofcom to delegate a coregulator if appropriate
<b>Article 1 (23)</b>	<b>28b(5)</b>	Requirement for Member States to establish the necessary mechanisms to assess the appropriateness of measures referred to in paragraph 28b(3) taken by video-sharing platform providers. Member States shall entrust the assessment of those measures to the national regulatory authorities or bodies.	Section 368Z1 of the 2003 Act imposes the duties on service providers. Section 368X imposes duties on the appropriate regulatory authority to secure compliance with requirements on service providers, and to produce guidance concerning the measures set out in Schedule 15A which may be appropriate for the purposes mentioned in section 368Z1(1), and the implementation of such measures.  Enforcement powers of the regulatory authority are set out in sections 368Z3 to 368Z11.
<b>Article 1 (23)</b>	<b>28b(6)</b>	This paragraph allows for measures that are more detailed or stricter than those set out in 28b(3)	Not transposed, option to impose stricter measures.

<b>Article 1 (23)</b>	<b>28b(7)</b>	An obligation for Member States to ensure that redress mechanisms are available for settling disputes between video-sharing platforms and users	Section 368Z1(7) and paragraph 8 of Schedule 15A
<b>Article 1 (23)</b>	<b>28b(8)</b>	Requires that users can assert their rights before a court in relation to video-sharing platform providers in relation to Article 28b(1) and (3)	Section 368Z1(7) and paragraph 8 of Schedule 15A
<b>Article 1 (23)</b>	<b>28b(9)</b>	The Commission shall encourage video-sharing platform providers to exchange best practices on co-regulatory codes of conduct	Not transposed, obligation on Commission
<b>Article 1 (23)</b>	<b>28b (10)</b>	Member States and the Commission may foster self regulation through Union codes of Conduct	Not transposed, optional measure
<b>Article 1(24)</b>		Amends the title of Chapter XI to 'REGULATORY AUTHORITIES AND BODIES OF THE MEMBER STATES'.	Not transposed
<b>Article 1(25)</b>	<b>Article 30</b>	Ensures and outlines the conditions for the independence of regulatory authorities.	Part 1 sets out the functions of the UK's national regulatory authority, Ofcom. It sets out in statute Ofcom's independence, impartiality and accountability, as well as procedures for appointments of heads and members of its bodies. The Act ensures that Ofcom has access to the resources necessary to fulfill its functions. The process for appeal from decisions by Ofcom are to take judicial review proceedings.  As such, the UK already fulfills requirements set out in the revised Article 30, which does not require further transposition.
<b>Article 1(26)</b>	<b>Article 30a</b>	Article 30a concerns processes for cooperation between Member States' regulatory authorities respectively and with the European Commission.	Section 335 and 335A. Section 335 enables the Secretary of State to notify Ofcom of international obligations in relation to broadcasting. Section 335A requires OFCOM co-operate with and provide information to member States and to the European Commission in order to comply with the Audiovisual Media Services Directive in relation to broadcasters; section 368OA

			makes similar provision in relation to providers of on-demand programme services; and section 368Z12 makes similar provision in relation to providers of video-sharing platform services.
<b>1(27)</b>	<b>Article 33</b>	This Article replaces Article 33 of the 2010 Directive and concerns the Commission's role in monitoring the application of this Directive, including through reporting and evaluation.	Not transposed (requirement for Commission)
<b>Article 1(28)</b>	<b>Article 33a</b>	Requirement for Member States to promote media literacy, report to the European Commission, and the latter to issue guidelines.	Pre-existing obligations met through Section 11. Reporting requirements and Commission obligations not transposed as for the government to comply.
<b>Article 2(1)</b>		Sets conditions and deadline for transposition of Directive.	Not transposed
<b>Article 2(2)</b>		Requires Member States to communicate to the Commission how the Directive has been transposed.	Not transposed. Concerns practical matters for the UK in dealing with the European Commission and other Member States.
<b>Article 3</b>		Specifies that the Directive shall enter into force 20 days after its publication in the Official Journal of the European Union.	Not transposed. Obligation for the Commission
<b>Article 4</b>		The Directive is addressed to the Member States.	Not transposed