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# Video-sharing platform guidance

Guidance for providers on control of advertising

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## Guidance on control of advertising

In November 2020, changes to the Communications Act 2003 (“the Act”) came into effect, which introduced regulatory requirements for UK-established video-sharing platforms (“VSPs”), and which gave Ofcom responsibility for enforcing these requirements. These changes transposed the 2018 revision to the Audiovisual Media Services Directive (“AVMSD”), via the Audiovisual Media Services Regulations 2020<sup>1</sup>. The statutory framework for the regulation of VSPs is set out in Part 4B of the Act.

Ofcom considers advertising<sup>2</sup> to be marketed, sold or arranged by a VSP provider when a VSP provider is involved in making the advertising available on the platform, which may include (but is not limited to): enabling advertisers to buy advertising on their platform, either directly or via a third-party; and/or providing tools that enable advertisers to target or optimise the reach of their advert served on the provider’s platform.

Advertising can appear on a platform but not be marketed, sold or arranged by a VSP provider. For instance, influencer marketing may not meet this definition if the provider has not engaged with the influencer in relation to the advertising. In addition, an advert posted by a brand (in the brand’s capacity as a user) on a VSP that appears without any engagement between the brand and the VSP provider would not be considered to be under the provider’s control.

The regulator will take into account a range of information (e.g. advertising models, information from VSPs, commercial arrangements) when determining whether advertising is marketed, sold or arranged by the VSP provider. While it is the responsibility of the VSP to determine whether or not advertising is under their control, we expect discussions about the scope of ‘marketed, sold or arranged’ to form part of ongoing engagement with providers. For both VSP-controlled and non-VSP controlled advertising, the legislation aims to secure the same types of consumer protections through two frameworks.

a) VSP providers are responsible for ensuring compliance with the general advertising requirements and provisions on prohibited and restricted products where the advertising is marketed, sold or arranged by them.<sup>3</sup> Providers may achieve compliance through a range of approaches, including but not limited to:

- i) ensuring that advertisers and other third-parties they engage with are aware of the relevant requirements (e.g. when setting out terms of a contract or during the development of advertising);
- ii) ensuring that tools they provide to assist advertisers alert those making use of them to the relevant requirements; and/or
- iii) taking prompt action to remove or edit advertising that may contravene the requirements and taking steps to prevent the recurrence of any issues identified with advertising on their platform.

It is for providers to determine the appropriate steps they should take to ensure that advertising they control is compliant with the requirements.

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<sup>1</sup> [Audiovisual Media Services Regulations 2020](#)

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b) Where the advertising is not marketed, sold or arranged by the VSP provider, VSP providers must take such of the measures set out in Schedule 15A of the Act as are appropriate for ensuring that advertising meets the general advertising requirements, provisions on prohibited and restricted products, and requirements relating to the transparency of advertising.<sup>4</sup>

c) In addition, VSP providers must clearly inform users that a video contains advertising (where they have knowledge of this or it has been declared to them by the uploader), regardless of whether or not they have marketed, sold or arranged that advertising.

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<sup>2</sup> The Act refers to 'audio-visual commercial communications' ("AVCCs"). AVCCs are defined as follows: "Audiovisual commercial communication' means a set of moving or still images, or of legible text, or of a combination of those things (with or without sounds), which—(a) is designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity, and (b) accompanies or is included in a video in return for payment, or for other valuable consideration, or for self-promotional purposes; and forms of audiovisual commercial communication include advertising, sponsorship, teleshopping and product placement.' For ease, 'advertises' and 'advertising' are used as a shorthand in this document.

<sup>3</sup> In accordance with section 368Y(1) of the Act, VSP providers must ensure that advertising they market, sell or arrange complies with the advertising requirements in section 368X. These requirements are also set out on p.7 of this statement.

<sup>4</sup> Under section 368Z1(1) of the Act VSP providers must take appropriate measures in relation to advertising they do not market, sell, or arrange to ensure the relevant advertising requirements set out in section 368Z1(1)(c) are met.