CCIA Europe Submission to TRIS Notification Procedure

Concerns regarding the Romanian draft decision on video-sharing platform services

June 2026

The Computer & Communications Industry Association (CCIA Europe) welcomes the opportunity to contribute to TRIS notification procedure 2026/0124/RO, regarding the Romanian draft decision aimed at establishing the procedure for granting, amending and withdrawing authorisation to provide video-sharing platform (VSP) services (hereinafter the draft decision). CCIA Europe and its members share the objective of protecting consumers and minors online. The Association, however, is concerned that this draft decision contravenes EU law, in particular by proposing national legislation that:

1. Breaches the country-of-origin principle
2. Interferes with the E-Commerce Directive and its prohibition on prior authorisation
3. Creates overlapping and parallel obligations to the fully harmonised Digital Services Act (DSA)
4. Introduces substantial regulatory burdens that will negatively impact Romanian citizens, businesses, and the broader digital economy

In light of the above, CCIA Europe calls on the European Commission to issue a detailed opinion requesting the Romanian legislator to revise the draft decision in a way that is aligned with, and does not undermine, already applicable EU legislation.

1. Breach of the country-of-origin principle

The country-of-origin (CoO) principle is the cornerstone of the Digital Single Market, established by Article 3(1)-(2) of the E-Commerce Directive (ECD)[1]. This principle provides that a service provider established in one Member State is subject to the regulatory supervision of that Member State alone, and it is expressly incorporated into the regulation of VSP services by Article 28a(1) of the revised Audiovisual Media Services Directive (AVMSD)[2].

However, Article 5(1) of the Romanian draft decision establishes that all VSP service providers operating in Romania will have to obtain a licence from the National Audiovisual Council (CNA) before providing services. Furthermore, Articles 6 and 7(4) set out notification procedures that extend to EU/EEA-established providers, requiring them to submit equivalent corporate documentation and appoint a local representative on Romanian territory. Consequently, this notification breaches the CoO principle by imposing

[1] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), available here.
[2] Directive 2018/1808 of the European Parliament and of the Council of 14 November 2018 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, available here.

a parallel mandatory licensing, supervision, and sanctions regime on providers already subject to regulatory oversight in their home Member State.

Article 3(4) of the ECD provides a limited derogation from the CoO principle, but the draft decision does not satisfy these conditions. It is not targeted at a specific service, as a regulatory measure of general application cannot constitute a valid derogation. Furthermore, it is not proportionate, as Romanian authorities have not demonstrated why the existing AVMSD and DSA frameworks are insufficient, nor why a mandatory licensing regime with stringent enforcement deadlines represents the least restrictive means of achieving their objectives.

Such an approach would lead to substantial legal fragmentation throughout the Single Market, as service providers based in other Member States would be compelled to navigate differing national requirements. This proposal also stands in opposition to the Court of Justice of the European Union's latest interpretation regarding the CoO principle[3].

2. Interference with the E-Commerce Directive and the prohibition of prior authorisation

By requiring a mandatory licence before providing VSP services in Romania (Article 5(1)), we believe the Draft Decision also infringes Article 4(1) of the E-Commerce Directive (applied to VSP services via Article 28a(1) AVMSD), which prohibits making the pursuit of information society services "subject to prior authorisation or any other requirement having equivalent effect."

The prior authorisation prohibition is a foundational principle of the Digital Single Market, ensuring that service providers can operate cross-border without seeking permission from each individual Member State. As such, Romania's licensing regime directly contradicts this fundamental EU law principle.

3. Incompatibility with the Digital Services Act

While the Digital Services Act[4] (DSA) applies "without prejudice" to the AVMSD (Article 2(4)(b) of the DSA), the draft decision's requirements create a parallel regulatory architecture that overlaps with territory fully harmonised by the DSA. These obligations include:

Supervisory competence. The draft decision introduces enforcement mechanisms – such as binding decisions on content, 48-hour timelines for compliance, permanent access blocks, and administrative penalties – that establish a parallel supervisory framework. This system overlaps with the enforcement roles assigned to the Commission and the Digital Services Coordinator of the place of establishment under Chapter IV of the DSA. Specifically, Article 56(1) of the DSA grants "exclusive powers to supervise and enforce" the regulation to the Member State of establishment. Furthermore, under Articles 56(2) and (4), the Commission maintains primary jurisdiction over Very Large Online Platforms.

[3] CJEU 9 November 2023, case C376/22, Google Ireland and Others, ECLI:EU:C:2023:835, available here.
[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), available here.

Local representative requirement. According to Article 7(4) of the draft decision, EU/EEA-established providers are obligated to appoint a local representative with a Romanian contact address for liability purposes. This mandate functions as a de facto local establishment requirement, duplicating and exceeding the harmonised framework of Article 11 of the DSA, which only necessitates a single electronic point of contact.

Notice and action. The draft decision's Article 23 mandates that VSP services restrict or eliminate "manifestly illegal content within 48 hours of receiving the referral." While Article 16 of the DSA creates a fully harmonised framework for notice-and-action, requiring that platforms proceed in an "objective, non-arbitrary, diligent and timely manner," it intentionally avoids setting a specific removal deadline. This flexibility is designed to account for the fact that suitable response periods vary based on the context and type of content involved. By introducing a rigid national 48-hour requirement for all such content, the draft decision contravenes the DSA's adaptable standard.

Terms and conditions. According to Article 25 of the draft decision, the CNA must evaluate the adequacy of providers' terms and conditions based on a detailed list of mandatory components. This mandate conflicts with Article 14 of the DSA, which provides a harmonised set of transparency and content standards for intermediary services' terms, including specific rules for algorithmic decision-making, complaint systems, and content moderation. By establishing a prescriptive national assessment system, the draft decision introduces an unnecessary compliance layer in an area already harmonised by the DSA, where enforcement for cross-border providers is the responsibility of the Digital Services Coordinator in the country of establishment. Furthermore, the proposal seems to blur the distinction between contractual terms and the transparency obligations for users outlined in Articles 15, 17, and 27 of the DSA.

4. Impact on Romanian citizens, businesses, and the digital economy

Beyond its legal incompatibilities, the draft decision would produce tangible negative consequences for Romanian citizens, businesses, and the broader digital ecosystem.

Economic impact on Romanian businesses and creators. Romania has a growing digital economy, with thousands of content creators, small businesses, and entrepreneurs relying on VSPs to reach audiences, generate revenue, and grow their businesses. A mandatory licensing regime that discourages or delays the provision of VSP services in Romania would directly harm these users by reducing the platforms and tools available to them. Romanian SMEs that depend on video content for advertising, customer engagement, and e-commerce would face diminished access to a competitive marketplace. The draft decision risks positioning Romania as a less attractive environment for digital investment at a time when the country should be fostering innovation and digital growth.

Chilling effect on cross-border services. The licensing requirement, combined with the local representative obligation and stringent enforcement deadlines, creates a significant regulatory burden for providers established in other EU Member States. If providers conclude that the cost and legal risk of complying with Romania's standalone regime outweigh the benefits of serving Romanian users, they may reduce service availability or investment in the Romanian market. This outcome would directly harm Romanian

consumers and businesses who benefit from access to a wide range of cross-border digital services, which is the very purpose of the Digital Single Market.

Impact on cultural participation and freedom of expression. VSPs are essential infrastructure for cultural expression, civic participation, and democratic debate in Romania. The draft decision's prescriptive content regulation measures, including mandatory warning labels, rigid removal deadlines, and the threat of indefinite platform restrictions, risk creating an environment where platforms over-remove content to avoid sanctions, ultimately undermining the fundamental rights of Romanian users.

Conclusion

CCIA Europe asks the European Commission to exercise its powers under the TRIS procedure to deliver a detailed opinion identifying the incompatibilities outlined above. In doing so, the Romanian authorities' revision of the draft decision should:

1) Clarify that the draft decision does not apply to VSP providers established in other EU Member States
2) Reconsider the mandatory licensing regime (Articles 5-7) to ensure compliance with the prohibition on prior authorisation
3) Remove the standalone enforcement architecture (Articles 21, 23, and 26) and prescriptive content regulation provisions to prevent duplication of the established ECD, AVMSD, and DSA obligations

This would ensure the draft decision does not fragment the Digital Single Market nor undermine fundamental EU law principles.

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

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