[NL] Media Authority updates guidance for video influencers

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Ronan Ó Fathaigh
Institute for Information Law (IViR)

On 25 October 2023, the *Commissariaat voor de Media* (Dutch Media Authority – CvdM) published updated guidance for video influencers in the Netherlands. Notably, this resulted from recent discussions by the CvdM with video influencers who fall under its supervision, but "who do not yet sufficiently comply" with the rules under the *Mediawet* (Media Act), transposing the revised EU Audiovisual Media Services Directive (AVMSD) (see IRIS 2019-1/3 and IRIS 2021-1/24). This follows an earlier supervisory investigation into video-uploader compliance in May 2023, with the CvdM noting that video uploaders "need to be more compliant" (see IRIS 2023-7/21). This also follows a high-profile announcement in May 2022 that the CvdM would be monitoring video uploaders under its new policy rule for the qualification of commercial on-demand services in 2022, which clarified which video uploaders must register with the Media Authority (see IRIS 2022-7/17).

The CvdM noted from its latest investigation that "self-promotion" is one of the topics that was still "unclear" among video uploaders. The CvdM emphasised that "many" uploaders engage in self-promotion, and as such, it was necessary to update the CvdM's guidance on video influencing. In this regard, self-promotion is considered to include an influencer promoting their own products or services and merchandising under their own management. Notably, the CvdM considers that self-promotion is a special form of advertising. Crucially, if the "context" of the video clearly shows that there is self-promotion, then this form of advertising is probably sufficiently recognisable as such for the viewer. However, if the context of the video does not indicate that it is self-promotion, then the expression is "not sufficiently recognisable as an advertisement". In that case, the video influencer must clearly state that the video contains advertising for their own products, as well as third-party products or services.

The CvdM actively monitors influential influencers. That is, video influencers with more than 500,000 followers on YouTube, Instagram and/or TikTok. The CvdM also reiterated that video uploaders must adhere to the rules under the Media Act more closely, and it has held discussions with influencers who did not sufficiently comply with the rules. It has given these influencers the opportunity to correct violations and learn how to prevent future violations. However, if this does not achieve the desired effect, the CvdM will take further action, including, in the form of "warnings or fines".

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Finally, the CvdM noted that the European Commission had recently launched the Influencer Legal Hub, with information on how influencers can be transparent about advertising and commercial influence. However, the CvdM emphasised that this hub was about "general European rules", and "not specifically" about rules under the Dutch Media Act.

Commissariaat voor de Media, Commissariaat wijst video-uploaders op regels over o.a. zelfpromotie, 25 oktober 2023

https://www.cvdm.nl/nieuws/commissariaat-wijst-video-uploaders-op-regels-over-o-a-zelfpromotie/

Dutch Media Authority, the CvdM reminds video uploaders of rules about self-promotion, among other things, 25 October 2023

Commissariaat voor de Media, Veelgestelde vragen en antwoorden voor video-uploaders, 25 oktober 2023

https://www.cvdm.nl/voor-mediamakers/video-uploaders/nieuwe-regels-voor-video-uploaders/veelgestelde-vragen-en-antwoorden-voor-video-uploaders/

Dutch Media Authority, frequently asked questions and answers for video uploaders, 25 October 2023

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