

Regulating advertising aimed at children in the digital era: *too little too late or too much too soon?*

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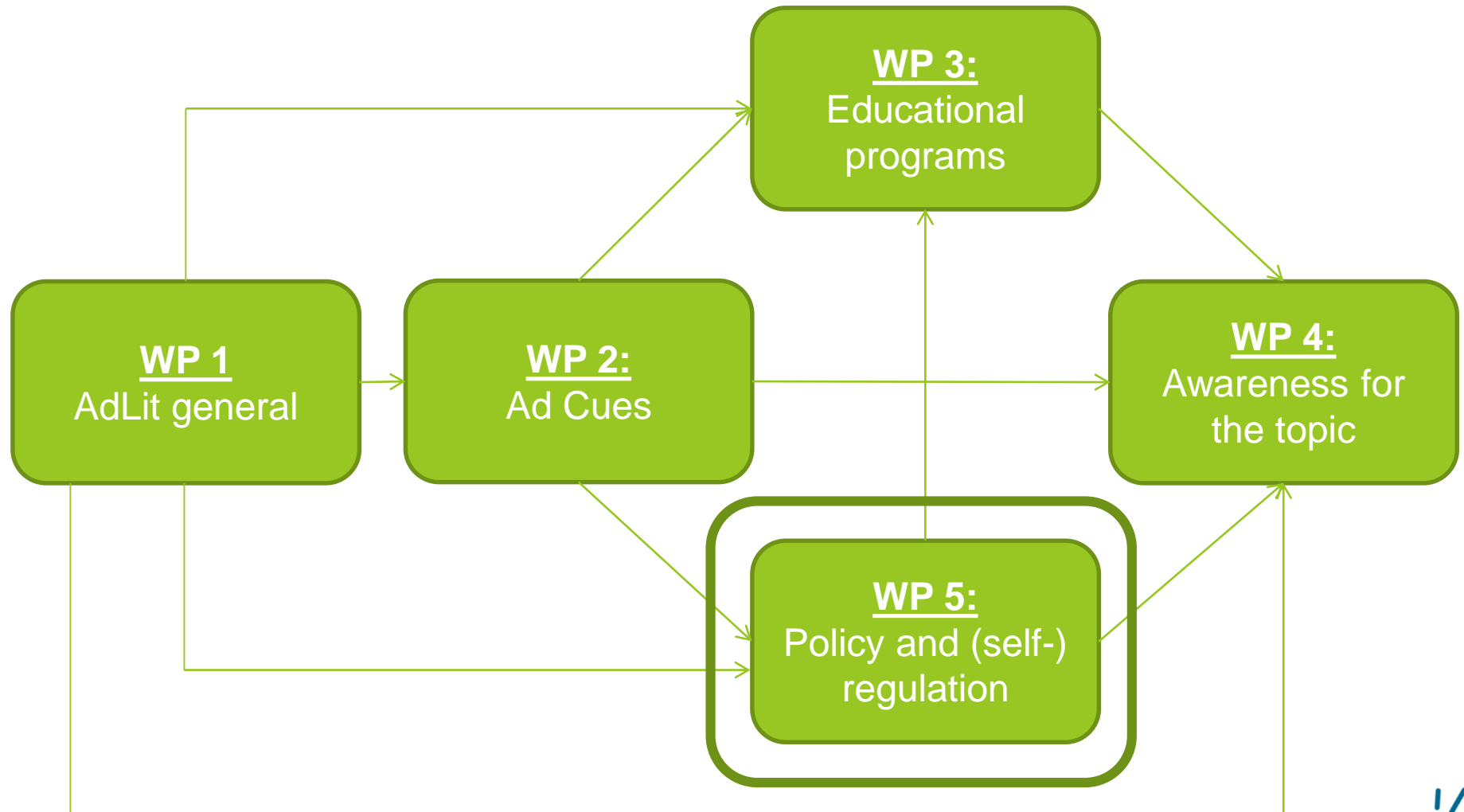
Prof. dr. Eva Lievens (Ghent University)

Children, adolescents and advertising

5 November 2015, Madrid



Project overview



New advertising formats: specific features

Infomercial



Mix of
editorial/entertain
ment content with
commercial
message

In-game/app advertising



New advertising formats: specific features

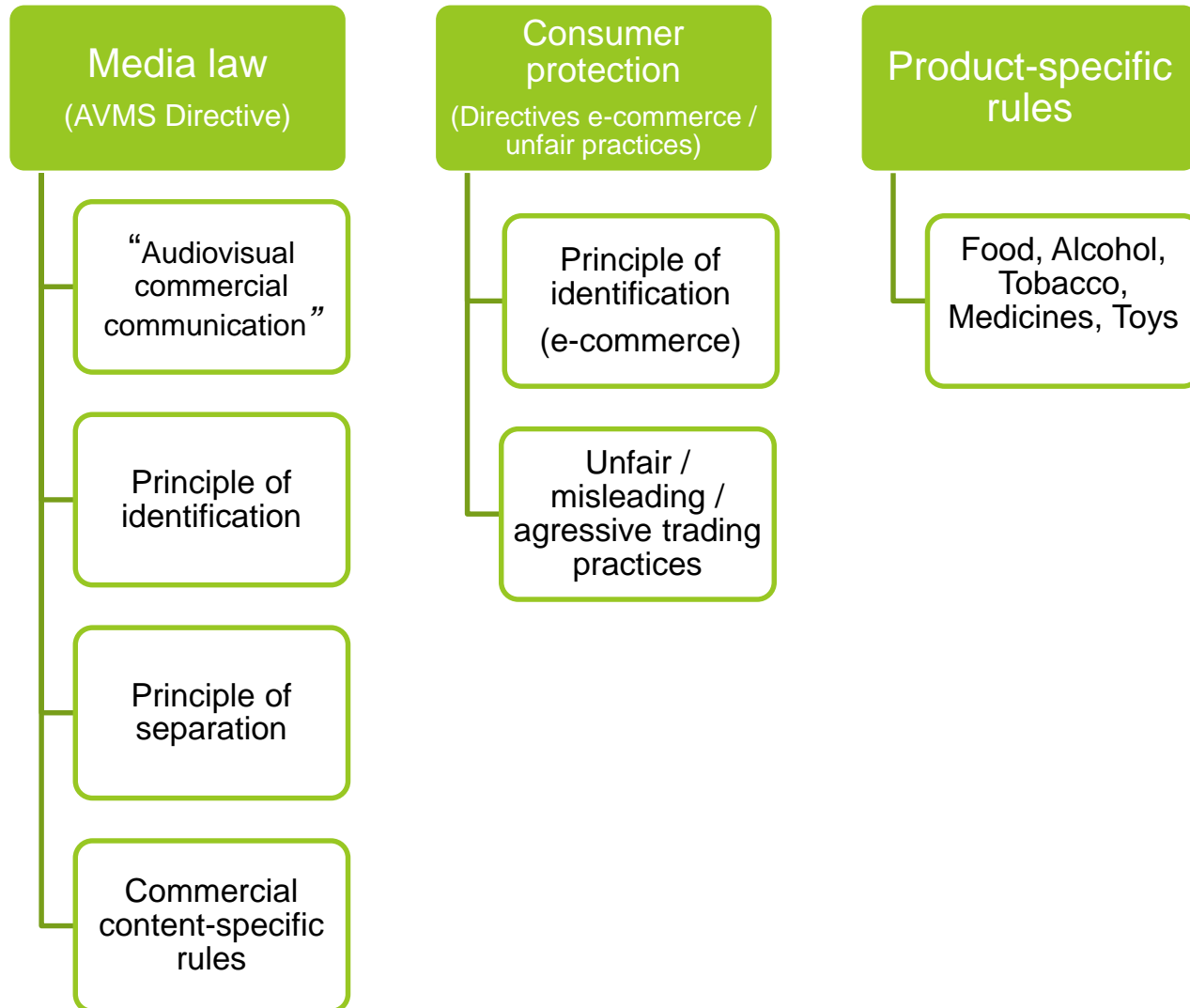
Variety of
platforms and
channels

Sophisticated,
interactive

Collecting
personal data



Current legal framework



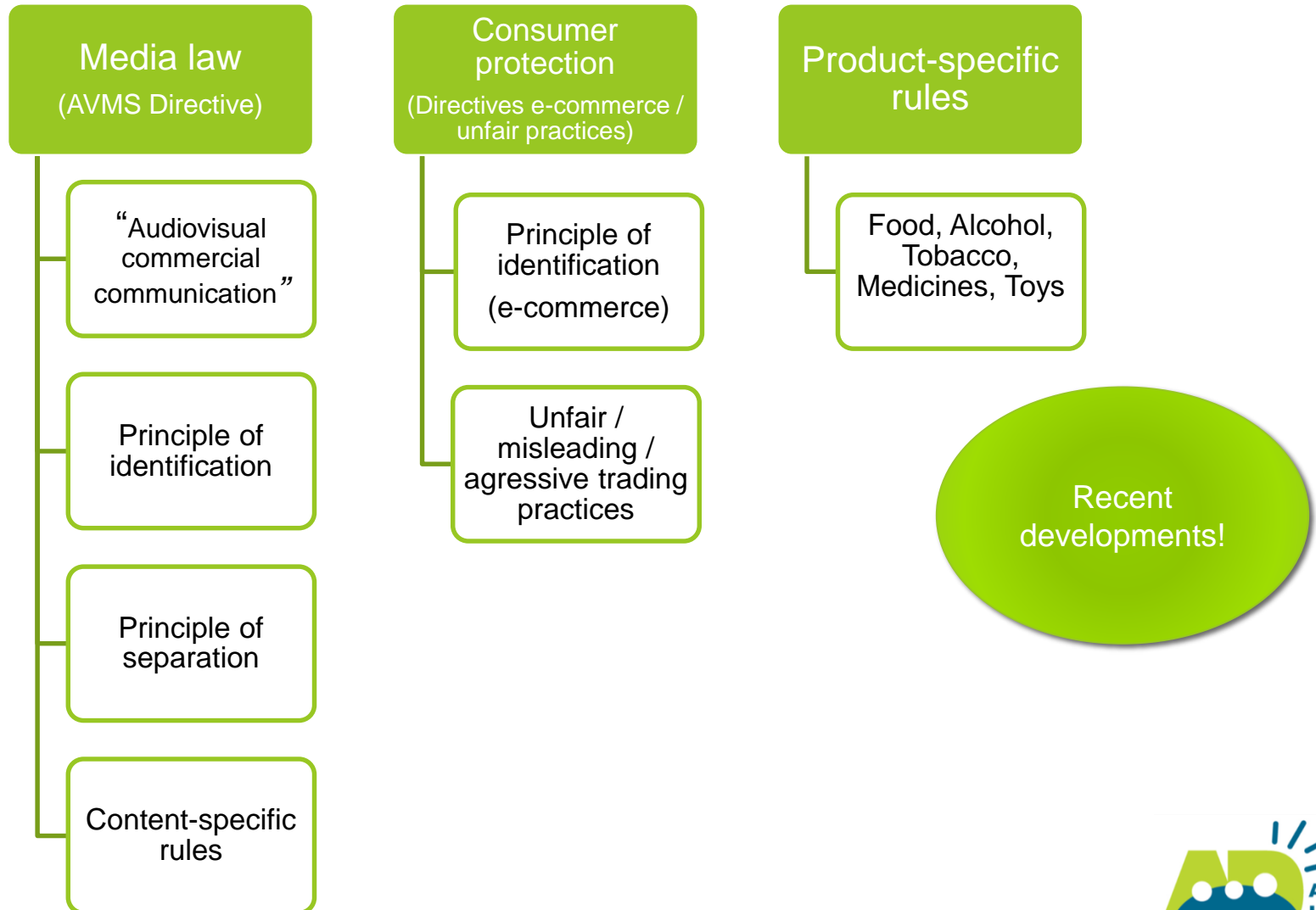
Current legal framework




Review!

- Applicability of existing directives? (e.g. AVMSD)
- Re-interpretation of principles of identification and separation?
 - from bumper to cross-media cue?
- Diverging national implementation

Current legal framework



Collecting children's personal data



CREATE USER ACCOUNT

1. Username
2. Profile information
3. Done


Welcome

Before you can get started you must ask your mother or father to open the email message we sent them, so they can approve your new LEGO ID.

To parents

We have sent an email message with a link you can use to approve your child's new LEGO ID. If you do not receive the email message, you can have it sent again by clicking on the button below.

[SEND ACTIVATION EMAIL AGAIN](#)

Help 

[ALREADY HAVE AN ACCOUNT?](#)

[Privacy Policy](#) [Cookie Policy](#)

Collecting children's personal data



SEPTEMBER 3, 2015



UK Data Protection Agency Investigates Apps and Sites collecting data of children

It's been reported that the UK's Data Protection Agency has held an investigation into what and how much data is being collected on children via sites popular with the demographic. The investigation looked at 1500 websites and apps, the results aren't surprising but scary nonetheless. An article has been posted on the BBC website here, and...

Collecting children's personal data

- profile individual consumer
- personalised advertising
- building strong and lasting interaction and connection



Current EU data protection framework

European Data Protection Directive (1995) – requirements for the lawful processing of personal data



- Legitimate ground for processing



- Data quality principles



- Data subject's rights

Current EU data protection framework

→ Legitimate ground: Consent

- ✓ take into account child's perspective
- ✓ parental consent in case the child has not reached “the level of discernment”



EU data protection reform

→ Legitimate ground: Consent

- ✓ General Data Protection Regulation: minimum age 13 years, “verifiable consent”, “taking into consideration available technology”
- ✓ Lessons from US Children’s Online Privacy Protection Act: “verifiable parental consent”, “taking into consideration available technology”, concrete methods

→ Data subject’s rights: Right to be informed

- ✓ “clear and plain language so that the child can easily understand”



Children's rights perspective

→ Best interest principle

→ Relevant rights

- right to freedom of expression
- right to privacy
- right to access information and material from a diversity of national and international sources & protection
- ...

participation



protection

CONVENTION
ON THE RIGHTS OF THE CHILD

THE EU
CHARTER OF
FUNDAMENTAL
RIGHTS

European Convention
on Human Rights

Conclusion: Too little too late or too much too soon?

- A patchwork of various rules exists which could be applicable to new advertising formats
- Future-oriented interpretation of existing principles
- Enforcement? E.g. media regulators struggling with interpretation of basic principles

Future project work

- Map the **self-/co-regulatory framework** and identify and analyse overlaps & gaps in the context of new advertising formats
- Study the **relevance and adequacy** of the current legal and self and co-regulatory framework via case-studies (e.g. advergames, native branding)
- Formulate **policy recommendations** from a **children's rights** perspective

THANK YOU

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