

[ES] First Draft Law on Audiovisual Communication

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On 6 November, the Ministry of Economic Affairs and Digital Transformation made public a Draft Law on Audiovisual Communication (*Anteproyecto de Ley General de la Comunicación Audiovisual*) with the aim of transposing the European Union's amended Audiovisual Media Services Directive and updating the regulation of the sector so that there is a level playing field for all competing agents.

The draft is open to public information and consultation until 3 December and, once approved, will substitute the current Law 7/2010 on Audiovisual Communication. The main changes proposed in relation to the latter are:

- Protection of minors: The co-regulation of the description and rating of content by age is promoted; contents and advertising relating to gaming, esoterism or parascience should be aired from 1 a.m. to 5 a.m. on linear free-to-air and pay television services; and all providers would have a duty to facilitate parental control systems.
- Accessibility: The existing obligations are extended to all providers, including therefore, for the first time, pay television and on-demand services.
- Advertising: Greater flexibility is allowed for commercial communications in linear television services: the limit of 12 minutes per hour is extended to a maximum of 144 minutes between 6 a.m. and 6 p.m., and to a maximum of 72 minutes between 6 p.m. and midnight. The existing prohibitions on alcohol and tobacco are extended to all providers of audiovisual communication services.
- Promotion of European works: quotas and prefunding obligations: Quotas would apply to providers of both linear and non-linear services legally based in Spain. Linear services would continue to reserve at least 51% of their annual broadcasting time for European audiovisual works, of which 50% should be reserved for works in Spanish or in any of Spain's co-official languages. In any case, 10% of the total broadcasting time is to be reserved for independent producers. Providers of on-demand services will have to offer a 30% share of European works in their catalogues, of which 50% should be reserved for works in Spanish or in any of Spain's co-official languages. The prominence of these works shall be ensured. Pre-funding obligations would apply to providers of both linear and non-linear services legally based in or targeting Spain (as long as their previous fiscal year's income in the country reached a minimum of 10 million

euros). Such obligations could be fulfilled via direct contributions to the production of works, the acquisition of their exploitation rights, or through a contribution to a national fund dedicated to the protection of cinema (Fondo de Protección de la Cinematografía). Obligations are stipulated differently depending on the type of provider: public service broadcasters would invest 6% of their income from the previous year, whilst commercial players would contribute 5%.

Anteproyecto de Ley General de la Comunicación Audiovisual

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