[ES] Second Draft Law on Audiovisual Communication

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Within the framework of the transposition of Directive 2018/1808 on audiovisual media services into Spanish law, the Ministry of Economic Affairs and Digital Transformation of the Spanish Government submitted the Draft Law on Audiovisual Communication again to a public hearing on 29 June 2021.

This latest version incorporates some of the contributions received in the previous consultation period held in December 2020. It is expected therefore that some of the comments sent up to 12 July in this new round of consultation will also be incorporated into the final text.

The main new features of the Draft Law on Audiovisual Communication are as follows:

Promotion of European audiovisual works: The percentages linked to funding obligations destined to European works of independent producers are increased, establishing a minimum of 3.5% for audiovisual works in any format and 2% for films (0,9% and 1,8%, respectively, in the previous version).

Gender equality: Respect for gender equality and non-discrimination is established, which translates, among other measures, into the promotion of the drafting of and adherence to self-regulation codes to protect users from content that may violate the dignity of women or promote sexist, discriminatory or stereotyped values. The production of audiovisual works directed or produced by women is also encouraged.

Accessibility: With the aim of making the audiovisual market inclusive, the percentage of accessible content is increased, including pay television and video on demand services.

Protection of minors: Protection in relation to alcoholic beverage advertising is reinforced by establishing restrictive schedules and prohibiting commercials being aimed directly at minors while promoting a vision of social, sexual, personal, family, sporting or professional success derived from its consumption. A reinforced protection slot during the afternoon on free-to-air television has been reintroduced after being eliminated in the first draft of the law.

State Public Service Media financing. An amendment of the Law 8/2009 on the financing of the *Corporación de Radio y Televisión Española* (Spanish Radio and

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Television Corporation - CRTVE) has been introduced, modifying the parties obliged to contribute to the financing of the corporation. Firstly, it is established that all agents in the audiovisual market competing for the same target audience are obliged to finance public service television; these include free-to-air linear television, linear pay television, video on demand and video sharing platforms. The notable novelty in this second draft is that the obligation is extended to providers of video on demand services and video exchange platforms. Secondly, the direct contribution of telecommunications operators for the part of their business that does not correspond to their audiovisual activity is eliminated. This tax was the subject of constant conflict between the Government and the operators, causing the European Commission to force its elimination when reaching the Court of Justice of the European Union in the form of a request for a preliminary ruling, referred by the national court (cases C-119/18, C-120/18 and C-121/18), which was resolved by order on 21 March 2019 in favour of telecommunications operators. Last, but not least, new mechanisms are introduced so that CRTVE can benefit from certain advertising formats – banned all in all under current legislation.

Segundo Anteproyecto de Ley General de la Comunicación Audiovisual

https://avancedigital.mineco.gob.es/es-es/Participacion/Paginas/DetalleParticipacionPublica.aspx?k=363

Second Draft of the General Law of Audiovisual Communication

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