[ES] New General Law on Audiovisual Communication followed by public consultations

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Following the approval of the new General Law on Audiovisual Communication in the Spanish Congress in May 2022 (see IRIS 2022-6/1), it was passed without changes by the Senate and published in the *Boletín Oficial del Estado* (Offical State Gazette — BOE) on 8 July 2022. This milestone culminates the transposition of the Audiovisual Media Services Directive (AVMSD) into national legislation.

The new law aims at adopting an updated legal framework, reflecting market developments and striking a balance between access to content, user protection and competition between providers in the audiovisual market. As such, it applies to players upon which there were no explicit obligations under the the 2010 General Law on Audiovisual Communication, such as on-demand services targeting Spain based in other Member State or streaming and video-sharing platforms.

Among the many measures included in the new law — ranging from the financing of public service broadcasting to the protection of minors — obligations to promote European audiovisual works stand out. Regarding quotas, audiovisual media service providers are obliged to reserve a minimum of 51% of their annual broadcasting time for European content, half of which shall be reserved to content in Spanish and official languages of the Autonomous Communities of Spain. The law also obliges providers of on-demand television services to reserve a minimum of 30% of their catalogue for European works, with half of that percentage also reserved for content in Spanish and official languages of the Autonomous Communities. Regarding investment measures on European works, the financing obligation is maintained at 6% of annual revenues for public providers; 5% for the privately owned ones. In both cases such funding must include a minimum of 70% to be dedicated to independent productions, 15% of which must be works in the official languages of the Autonomous Communities and 30% of which shall be of works directed or created exclusively by women.

The parliamentary processing of the law happened amidst strong questioning due to aspects such as the change of the definition of 'independent producer'; a modification that was seen by many associations of the sector as a Trojan horse to favour big media groups and their film subsidiaries. Additionally, some of the so-called vloggers complained about being considered audiovisual media service

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providers, although such a case will only arise if they are deemed as ‘users of particular relevance’.

In that sense, even though the law is already in force, detailed instructions for implementation, which will expand its provisions, are not expected to be published until 2023. There are currently three open public consultations seeking the views of all stakeholders affected by the legislation in relation to the main changes within the aforementioned promotion of European works, regarding commercial communications and also in relation to the need to register audiovisual media service providers.

Consulta Pública Previa a efectos de elaborar un proyecto de norma reglamentaria relativa al desarrollo de la obligación de promoción de obra audiovisual europea en los servicios de Comunicación Audiovisual.

https://portal.mineco.gob.es/es-es/ministerio/participacionpublica/consultapublica/Paginas/consulta_publica_obligacion_promocion_obra_audiovisual_europea.aspx

Prior public consultation with a view to drawing up a draft regulation on the development of the obligation to promote European audiovisual works in audiovisual media services.

Consulta Pública Previa para la elaboración de un proyecto de norma reglamentaria de desarrollo de la Ley 13/2022, de 7 de julio, General de Comunicación Audiovisual, relativa a las Comunicaciones Comerciales Audiovisuales.

https://portal.mineco.gob.es/es-es/ministerio/participacionpublica/consultapublica/Paginas/consulta_publica_comunicaciones_comerciales_audiovisuales.aspx

Prior Public Consultation for the preparation of a draft regulation implementing Law 13/2022, of 7 July, General Audiovisual Communication Law, on Audiovisual Commercial Communications.

Consulta pública previa a efectos de elaborar un proyecto de norma reglamentaria relativa al Registro Estatal de prestadores del servicio de comunicación audiovisual, de prestadores del servicio de intercambio de vídeos a través de plataforma y de prestadores del servicio de agregación de servicios de comunicación audiovisual y el procedimiento de comunicación previa de inicio de actividad

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es/ministerio/participacionpublica/consultapublica/Paginas/Consulta_publica_Registro_Estatal.aspx

Prior public consultation for the purpose of drawing up a draft regulation on the State Register of audiovisual communication service providers, video exchange service providers through a platform and audiovisual communication service aggregation service providers and the procedure for prior notification of the commencement of activity

Ley 13/2022, de 7 de julio, General de Comunicación Audiovisal. Boletín Oficial del Estado, 163.

https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-11311

Law 13/2022, of 7 July, General Audiovisual Communication. Official State Gazette, 163.

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