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Highlights of the General Audiovisual Communication Law

On 8 July 2022, the General Audiovisual Communication Law (hereinafter referred to as the “GACL”) was published in the Official State Gazette (BOE). The GACL repeals the former General Law 7/2010, of 31 March, on Audiovisual Communication, and incorporates into the Spanish legal system –well after the deadline for transposition of 19 September 2020– the Directive on audiovisual media services.

Highlights of the GACL:

1. New definition of “independent producer”

Independent producer: a natural or legal person who is not linked on a stable basis to a common business strategy with an audiovisual media service provider obliged to pre-finance European audiovisual works.

An independent producer is one who assumes the initiative, coordination and financial risk of the production of audiovisual programmes or content, on their own initiative or by commission, and in return for payment makes them available to the **audiovisual media service provider**.

2. Quota of audiovisual works in broadcast or catalogue

The new GACL includes quota obligations for the promotion of European audiovisual works by on-demand television services.

Quota of audiovisual works for linear television audiovisual media services (art. 115)

51% of the annual transmission time reserved for European audiovisual works:

- At least half of this quota will be allocated to works in the official language of the State or in one of the official languages of the Autonomous Regions.
- In relation to a public audiovisual media service provider at State level, at least **15%** will be reserved for audiovisual works in one of the official languages of the Autonomous Regions, taking into account their population size and reserving at least **10%** percent for each of them.

10% reserved for European works by independent producers (with half of this percentage going to works produced within the last five years).

Quota of audiovisual works in the catalogue of the television audiovisual media service at the request of platforms based in Spain (art. 116)

30% of the catalogue will be reserved for European works:

- At least half of this quota will be reserved for works in the official language of the State or in one of the official languages of the Autonomous Regions.
- Of this sub-quota, **40%** will be reserved for audiovisual works in one of the official languages of the Autonomous Regions, taking into account their population size and reserving at least **10%** percent for each of them.

The Autonomous Regions with an official language may impose additional obligations on providers of television audiovisual communication services at a regional level.

3. Particularly significant users who use video-sharing services via the platform

Influencers are considered to be audiovisual communication service providers and must therefore respect the obligations set out in the GACL when marketing, selling or organising the commercial communications that accompany or are inserted into their audiovisual content.

4. Pre-financing obligation for European audiovisual works and promotion of linguistic diversity

The obligation to pre-finance European audiovisual works is extended to on-demand platforms established in Spain (or those which are established in another Member State and direct their offering towards Spain) (art. 117).



It will not apply: to providers with a low volume of business or a small audience, or in cases where such an obligation would be impracticable or unjustified.



Ways of complying with the obligation: through *direct participation*, the *acquisition of exploitation rights*, *contribution to the Film Protection Fund*, or *contribution to the Fund for the Promotion of Films and Audiovisuals* in co-official languages other than Spanish.

Type of audiovisual media service provider	%	Distribution and types of works
	< €10 m.	Exempt
Provider of television audiovisual media service, linear or on demand	< €50 m. – > €10 m.	70% → audiovisual works by independent producers.
	≥ €50 m.	5% At least 70% for audiovisual works by independent producers (of which at least 15% will go to audiovisual works in the official languages of the Autonomous Communities and 30% to audiovisual works directed or created by women) and 40% for cinematographic films produced by independent producers.
Public service provider of audiovisual communication on television	6%	At least 70% for audiovisual works by independent producers (the new GACL significantly increases the percentages required to finance audiovisual works with independent producers). Of which: <ul style="list-style-type: none"> 15% is earmarked for works in the official languages of the Autonomous Regions; 30% will be for audiovisual works directed or created by women. 45% is earmarked for cinematographic films produced by independent producers. 12% for animations and documentaries.

5. Limits on advertising

Linear television audiovisual media service providers may broadcast audiovisual commercial communications within the following quantitative limits:

- a) 🕒 Maximum 144' between 6:00 and 18:00.
- b) 🕒 Maximum 72' between 18:00 and 00:00.

This new wording opens up the possibility of the service provider choosing to concentrate such content in certain time slots, in contrast to the repealed GACL, which stipulated that advertising messages could be broadcast for a maximum of 12 minutes per hour of broadcasting.

6. The protection of minors

- Television audiovisual media service providers, whether linear or on-demand, will have an **age ratings** system, visible on screen by means of a visual indication and easily understandable to all persons.
- Audiovisual commercial communication of cigarettes is prohibited; and various limitations on audiovisual commercial communication of alcoholic beverages have also been included (art. 123).
- Providers of conditional access linear television audiovisual media services will need to have a **parental controls** system in place, as well as be part of the co-regulatory code.
- Programmes with an age rating of “*Not recommended for persons under 18*” may only be broadcast between 22:00 and 6:00.
- Programmes related to esotericism and para-science will need to be broadcast between 1:00 and 5:00 (the previous law allowed them to be broadcast between 22:00 and 7:00).
- The broadcasting slot for gambling and betting programmes of between 1:00 and 5:00 has been maintained.

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