



MINISTRY OF
ECONOMIC AFFAIRS AND
DIGITAL TRANSFORMATION

STATE SECRETARIAT FOR TELECOMMUNICATIONS AND
DIGITAL INFRASTRUCTURE

GENERAL SECRETARIAT FOR TELECOMMUNICATIONS AND
THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES

SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF
AUDIOVISUAL MEDIA SERVICES

REGULATORY IMPACT ANALYSIS REPORT

**DRAFT ROYAL DECREE REGULATING THE STATE REGISTER CONCERNING
THE PROVISION OF AUDIOVISUAL MEDIA SERVICES, OF VIDEO-SHARING
PLATFORM SERVICES, AND AUDIOVISUAL MEDIA-SERVICE
AGGREGATION SERVICES, THE PROCEDURE FOR PRIOR NOTIFICATION OF
THE START OF ACTIVITY AND THE REGISTRATION PROCEDURE.**

[23 May 2023]



EXECUTIVE SUMMARY SHEET

| | | | |
|-------------------------------------|---|-------------|-------------|
| Proposing Ministry | Ministry of Economic Affairs and Digital Transformation. State Secretariat for Telecommunications and Digital Infrastructure General Secretariat for Telecommunications and the Organisation of Audiovisual Media Services | Date | 23 May 2023 |
| Title of regulation | Royal Decree concerning the provision of audiovisual media services, of video-sharing platform services, and audiovisual media-service aggregation services. | | |
| Report type | Normal <input checked="" type="checkbox"/> Abbreviated <input type="checkbox"/> | | |
| TIMELINESS OF THE PROPOSAL | | | |
| Regulated situation | Organisation and operation of the new State Register created by Article 39 of Law 13/2022, of 7 July, General on Audiovisual Media, regulating the provisions on procedures initiated with the State Register, especially the procedure of prior notification of the start of activity and the channels of cooperation and administrative collaboration of the State Register. | | |
| Objectives pursued | <ul style="list-style-type: none">• To develop in regulation part of Law 13/2022, of 7 July, General on Audiovisual Media, a regulation that in turn transposes into Spanish law Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November, amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive (AMSD)) in view of changing market realities.• To regulate the organisation and operation of the new State Register of Audiovisual Media Service Providers, of Video-Sharing Platform Service Providers, and Audiovisual Media-Service Aggregation Service Providers, by broadening the types of providers obliged to register.• To provide greater legal certainty to the procedure of prior notification of the start the provision of audiovisual media services, updating the regulatory framework for the initiation of the provision of audiovisual media services created by the previous legislation, in accordance with Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations and Law 13/2022, of 7 July.• To develop certain provisions in the sanctions regime for effectively exercising the sanctioning power provided for in Law 13/2022, of July 7.• To improve the electronic operation of the new State Register compared to the previous one, in accordance with the provisions of Law 39/2015, of 1 October, since all providers are obliged to interact with the new Register by electronic means, thus allowing fluidity and flexibility in communicating with Register-users and reducing administrative burdens.• To establish channels and mechanisms for collaboration with the National Commission on Markets and Competition and the European Commission in exchanging information.• To advance the compliance with and improvement of coordination between the State Register and the Autonomous Communities. | | |
| Main alternatives considered | It is not deemed appropriate to amend Royal Decree 847/2015, of 28 September, regulating the State Register of Audiovisual Media Service Providers and the procedure for the prior notification of the start of activity due to the significant changes introduced in Law 13/2022 that entail incorporating new providers that must be registered in the Register, with each of them having its specificities. | | |
| CONTENT AND LEGAL ANALYSIS | | | |
| Type of regulation | Royal Decree | | |
| Structure | Preamble, 36 articles distributed into 5 Titles, a single additional provision, three transitional provisions, one derogatory provision, three final provisions, and one annex. | | |



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| Prior public consultation | From 27 July 2022 to 15 September 2022, a public consultation was held prior to elaborating the regulations in accordance with Article 26(2) of Law 50/1997, of 27 November, of the Government. Ten contributions were received. | |
| Public hearing | From 23 December 2022 to 20 January 2023, there was a public hearing provided for in Article 26(6) of Law 50/1997 of 27 November. | |
| Reports to be collected | <p>On 4 April 2023, a report was received from the National Commission on Markets and Competition.</p> <p>- Notification within the procedure for providing information in the field of technical regulations and of rules on information-society services in the European Union (TRIS).</p> <p>In the absence of the definitive criterion of the GTS, it is deemed that the following reports should also be obtained:</p> <ul style="list-style-type: none"> - Ministry of Economic Affairs and Digital Transformation. GTS. State Counsel - Ministry of Public Administrations. - Ministry of Consumer Affairs. Consumer and User Association. - Ministry of Finance and Civil Service including prior approval. - Ministry of Justice. Spanish Data Protection Agency. - Office of Quality and Policy Coordination. | |
| Opinion | Council of State (Article 22(3) Organic Law 3/1980 of 22 April of the Council of State) | |
| IMPACT ANALYSIS | | |
| Adaptation to the competence order. | The draft Royal Decree is issued under the competence of the State to lay down the basic regulations on social media (Article 149(1)(27) EC). | |
| Economic and budgetary impact | Overall economic impact | It is not possible to quantify the outcome. |
| | With regard to competition | <input type="checkbox"/> the regulation has no significant impact on competition <input checked="" type="checkbox"/> the regulation has positive effects on competition <input type="checkbox"/> the regulation has a negative impact on competition |
| | From the point of view of administrative burdens, the regulation | <input type="checkbox"/> It entails a reduction of administrative burdens Estimated quantification: _____ <input type="checkbox"/> it includes new administrative burdens. Estimated quantification: _____ <input checked="" type="checkbox"/> it does not affect the administrative burden |
| | From a budgetary point of view, the regulation <input type="checkbox"/> It affects State budgets <input type="checkbox"/> Affects the budgets of other Regional Administrations | <input type="checkbox"/> It involves expenditure <input type="checkbox"/> It involves income In accordance with the provisions laid down in the measures included in this regulation, they do not involve an increase in resources or remuneration or other staff costs. The Ministry already has the staffing and technical resources to be able to carry out the tasks involved in managing the Register. |



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| Gender impact | The gender impact of the regulation is | Negative <input type="checkbox"/> Non-existent <input checked="" type="checkbox"/> Positive <input type="checkbox"/> |
| Other impacts considered | | |
| Other considerations | | |



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(NB - More annexes shall be introduced with the rest of the reports as these are gathered).



I. TIMELINESS OF THE DRAFT ROYAL DECREE.

1. Reasons for the regulation.

The **adoption of Law 13/2022, of 7 July**, entailed the transposition into Spanish law of the **Directive (EU) 2018/1808** of the European Parliament and of the Council of 14 November 2018, amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

Article 2(5) of Directive 2018/1808 provides that: *"Member States shall establish and maintain an up-to-date list of the media service providers under their jurisdiction and indicate on which of the criteria set out in paragraphs 2 to 5 their jurisdiction is based. Member States shall communicate that list, including any updates thereto, to the Commission"*.

For its part, Article 28 bis (6) of Directive 2018/1808 provides that: *'Member States shall establish and maintain an up-to-date list of the video-sharing platform providers established or deemed to be established on their territory and indicate on which of the criteria set out in paragraphs 1 to 4 their jurisdiction is based. Member States shall communicate that list, including any updates thereto, to the Commission.'*

In that directive, recital 7 states that *'(...) it is essential that Member States establish and maintain an up-to-date list of the video-sharing platform providers established or deemed to be established on their territory their jurisdiction is based (...)'*

This provision of maintaining **updated registers of providers according to the jurisdiction** to which they are subject has its translation in Article 37 of Law 13/2022, of July 7, by establishing that: *'1. The provider of the state-wide audiovisual media service shall be registered in the State Register of a public nature'*.

The spirit with which it was born is the Law 13/2022, of July 7, to **include all the actors** that compete in this sector for the same audience on a level playing field, leads to Article 39 creating a **new state Register where the type of the providers obliged to register is broadened**.

That article thus provides that: *'1. It is created, under the Ministry of Economic Affairs and Digital Transformation, the State Register of Audiovisual Media Service Providers, Video-Sharing Platform Service Providers, and Audiovisual Media-Service Aggregation Service*



Providers', referred in paragraph 4 of the same article, to a **later regulation** for the **organisation and operation of the new Register**.

Despite the fact that the ninth final provision of the aforementioned law states that its entry into force of shall be the day after its publication in the 'Official State Gazette', with respect to the new State Register created, it maintains that: *'Article 39 shall enter into force with the adoption of the regulation which is enacted to establish the organisation and operation of the State Register'*, remaining in force, according to the seventh transitional Provision: *'The State Register of audiovisual media service providers provided for in Article 33 of Law 7/2010, of March 31, General on Audiovisual Media, as well as the registrations made therein, which shall be automatically transferred to the new Register'*.

Consequently, the adoption of the regulation containing this draft Royal Decree, **is necessary for the implementation of the new State Register created by Law 13/2022, of 7 July**.

2. Alternatives considered.

Law 13/2022, of 7 July, provides in Articles 19.2, 20.2 and 39.4 for the regulatory development of these provisions relating to the prior notification without effects, the loss of audiovisual media service provider status, as well as the organisation and operation of the Register. They are all subject of this draft Royal Decree.

The scale and scope of the amendments that need to be made to the regulation have determined that, instead of undertaking a partial amendment of Royal Decree 847/2015, of 28 September, it is decided to adopt a new comprehensive regulatory standard.

3. Aims and objectives pursued.

- **To develop in regulation** part of Law 13/2022, of 7 July, General on Audiovisual Media, a regulation that in turn transposes into Spanish law Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November amending Directive 2010/13/EU. Specifically, it is intended to provide **greater legal certainty to the procedure of prior notification** of the start of providing audiovisual media services, updating its regulatory framework in accordance with Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations and Law 13/2022, of 7 July.
- To regulate the **organisation and operation of the new State Register** of audiovisual media service providers, video-sharing platform service providers and audiovisual media-service aggregation services providers created by Article 39 of Law 13/2022, of July 7.



- To provide **greater transparency** to the audiovisual sector as a means of protecting the rights of users, through the making available to companies and citizens of the information contained in the State Register, especially the one that identifies the editors and owners of the providers of audiovisual media services, video-sharing platform services, and audiovisual media-service aggregation services, as well as users of special relevance of video sharing services through platform.
- To develop certain provisions in the **sanctions regime** for effectively exercising the sanctioning power provided for in Law 13/2022, of July 7.
- **To improve the electronic operation** of the new State Register, in accordance with the provisions of Law 39/2015, of October 1, since all providers are obliged to interact with the new Register by electronic means, thus allowing fluidity and flexibility in communicating with Register-users and reducing administrative burdens.
- To advance compliance with and improvement of the coordination between the **State Register and the regional registers** and establish the **channels and mechanisms of collaboration** with the National Commission on Markets and Competition and with the European Commission in the exchange of information.

4. Adherence to the principles of sound regulation.

In accordance with the provisions of Article 129 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, the preparation of this Royal Decree has been carried out in accordance with the **principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency**.

First, the principles of necessity and effectiveness are fulfilled as the regulatory development of Law 13/2022, of 7 July, and an appropriate instrument for such development. The principle of proportionality is also complied with by this Royal Decree containing the regulation necessary to achieve the objectives that justify its adoption.

With regard to the principle of legal certainty, the Royal Decree is consistent with the rest of the national legal regime, since it constitutes, together with Law 13/2022 of 7 July, a stable, integrated and clear regulatory framework for the rights and obligations of providers subject to the scope of the regulation. By virtue of the principle of proportionality, the legislation contains the regulations necessary for achieving its aims.

The principle of transparency has also been complied with, through holding a public consultation prior to preparing the regulation in accordance with Article 26(2) of Law 50/1997, of 27 November, of the Government, and through the publication of the draft Royal Decree on



the web portal of the Ministry of Economic Affairs and Digital Transformation, so that it can be submitted to the public hearing and information of all those interested in being acquainted with and improving the regulation.

Lastly, in relation to the principle of efficiency, it has been ensured that the regulation generates the lowest administrative burdens for those obliged to comply with the regulation, as well as the lowest indirect costs, promoting the rational use of public resources and full respect for the principles of budgetary stability and financial sustainability.

5. Annual Legislative Plan.

In the Annual Regulatory Plan for the General Administration of the State for the financial year 2023, adopted by agreement of the Council of Ministers of 31 January 2023, the adoption of this Royal Decree is not foreseen for this year. However, its adoption is considered necessary in order to improve the transparency of the audiovisual sector and facilitate the supervision of new providers to the National Commission for Markets and Competition.

II. CONTENT, LEGAL ANALYSIS AND DESCRIPTION OF THE PROCEDURE

1. Content of the draft Royal Decree.

The draft Royal Decree consists of a Preamble, 36 articles organised in a preliminary title and four titles, one additional provision, three transitional provisions, one derogatory provision and three final provisions.

1. The draft Royal Decree has the following structure:
 - a) The Preliminary Title. Named 'General Provisions' and consisting of three articles (1-3). This determines the subject matter and scope of the Royal Decree, and the definitions and references.
 - b) Title I: 'Legal System of the State Register'. Divided into two chapters and 12 articles (4-15):
 - Chapter I. Named 'General Provisions' (Articles 4-8). It regulates the aim, purpose, nature and organisational dependence, legal regime of the State Register, as well as the formal advertising regime and the protection of personal data and the electronic management of the State Register. These articles are in line with Law 39/2015, of 1 October, adopted after the adoption of Royal Decree 847/2015 of 28 September.



- Chapter II. Named 'Organisation and operation of the State Register' (Articles 9-15). New to this chapter, the following stands out:
 - Each of the functions of the State Register is detailed.
 - The State Register is divided into different sections and subsections depending on the type of the providers.
 - The electronic registration sheet is defined as a means of recording the entries and the documentation of the providers, and distinguishes between the entries made at the request of the party and those practised ex officio.
 - The provision of data and documents of the providers is divided into two articles:
 - o The first on the data and acts of the provider that can be registered, distinguishing between those that must be provided by all the providers, those that must additionally be provided by audiovisual media service providers, which are specifically required for said providers in accordance with Articles 35, 37, 38 and 42 of Law 13/2022, of 7 July.
 - o The second relating to service data that can be registered, distinguishing between those that must be provided by audiovisual media service providers, and the other providers.
- c) Title II named 'Provisions on procedures with the State Register'. It is divided into three chapters and comprises a total of 15 articles (16-30):
 - Chapter I. 'Preliminary notification on the start of activity' (Articles 16 to 19). This chapter highlights the following:
 - It regulates the procedure for submitting the prior notification to be made through the IT application enabled in the electronic headquarters of the Ministry of Economic Affairs and Digital Transformation, by means of the standard models available and the correction of the previous notification when it is incomplete, displays failures or does not provide the required documentation.
 - In addition to covering cases in which prior notification has no effect, the corresponding procedure for declaring that it is impossible to continue the presentation is regulated.
 - There is also a duty to register prior notification.
 - Chapter II. 'Procedures for registering and amending registrations' (Articles 20 to 26). This chapter regulates:



- The duty and declaratory nature of entry in the State Register.
 - The ex officio practice of the first entry in the State Register by the managing body of the Register.
 - The correction of the entry application.
 - The duty of the providers to keep the data of the State Register up to date, and the respective procedure for amending the data entered.
 - Cancelling registration after the loss of audiovisual media service-provider status in accordance with the provisions of Chapter III.
- Chapter III. 'Procedure for loss of provider status (Articles 27 to 30). This chapter regulates the procedure for loss of provider status, commonly applied to all providers alike, although the loss shall occur due to different causes depending on the type of provider. Both the procedure, which ends with the issuance of the Resolution agreeing to the loss of status, and the registration cancellation, shall be agreed ex officio.
- d) Title III named 'Sanctions Procedure', and consists of 2 articles (31-32). A new feature compared to the previous legislation is that certain specific provisions are developed in the sanctions regime, such as identifying the competent bodies for investigation and resolution, as well as certain provisions of the procedure such as the collaboration of other bodies during the investigation phase.
- e) Title IV dedicated to 'Cooperation and administrative collaboration of the State Register' consists of four articles (33-36). It provides for the procedures for complying with the obligation of cooperation with the European Commission, the collaboration and interconnection agreement with the regional registers, the collaboration agreement with the CNMC, and the means of collaboration with other public bodies.
2. Single additional provision stating that the measures included in the regulation may not entail an increase in allocations, remunerations or other staff costs of the body in charge of managing and maintaining the State Register.
3. Three transitional provisions:
- a) The First Transitional Provision is agreed to transfer ex officio the entries made in the State Register of Audiovisual Media Service Providers, with said Register no longer in force as provided for in Royal Decree 847/2015, of 28 September.
 - b) The Second Transitional Provision lays down a three-month registration period for those providers of audiovisual media services, the video-sharing platform and audiovisual media-service aggregation services, which are not registered in the previous State Register. For users of special relevance who use video-sharing



platform services, a three-month period from the entry into force of the regulation is also established that specifies the requirements to be considered a user of special relevance.

- c) The Third Transitional Provision, the situation in which the procedures already initiated remain.

- 4. A single derogatory provision.
- 5. Three final provisions concerning the power to adopt implementing provisions, the title of competence and the entry into force.
- 6. Finally, the draft Royal Decree has an annex containing the structure of the Register and the electronic registration sheet.

2. Legal analysis.

Range of the regulation:

The draft Royal Decree is presented as a Royal Decree, issued under the regulatory authority contained in the seventh final provision of Law 13/2022, of 7 July.

Relationship with European law:

As already noted, the draft Royal Decree constitutes a development of certain aspects of Law 13/2022, of 7 July, which incorporates into Spanish law the **Directive (EU) 2018/1808** of the European Parliament and of the Council of 14 November 2018, amending the **Directive 2010/13/EU**, on the coordination of certain laws, regulations and administrative provisions of the Member States relating to the provision of audiovisual media services, which has introduced, among other innovations, the inclusion of platform video sharing services within the scope of the Audiovisual Media Services Directive, in order to ensure the protection of minors from harmful content also in that environment, as well as to protect viewers from content that incites violence or hatred, or constitutes a public provocation to committing a terrorist offence.

However, Directive 2018/1808 does not rule on the matters elaborated in the text, meaning the contents of the draft Royal Decree must not be regarded in themselves as transposing Community law. However, in Law 13/2022, of 7 July, **taken into account are the articles and the following recitals of the Directive and, therefore, these have also been taken into account for the preparation of this draft Royal Decree:**

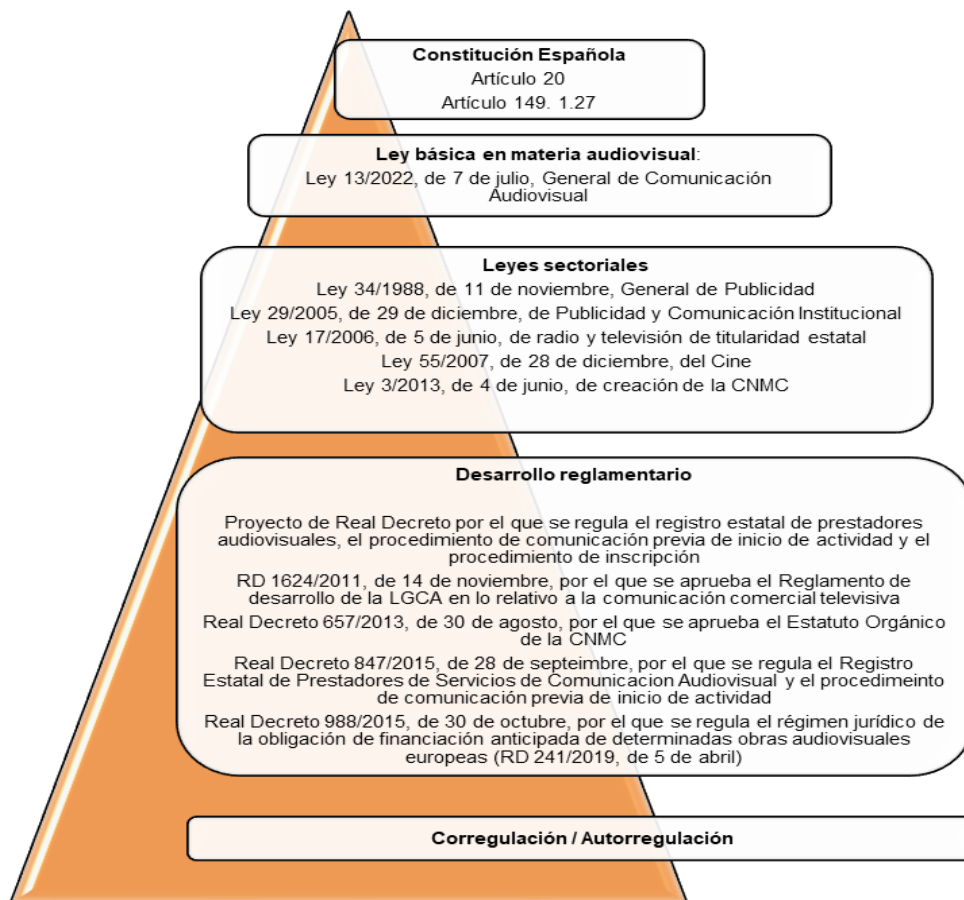


- Recital 7: *'In order to ensure the effective implementation of Directive 2010/13/EU, it is essential that Member States establish and maintain up-to-date records of media service providers and video-sharing platform providers under their jurisdiction, and regularly share these records with their competent independent regulatory authorities and bodies and with the Commission. These records must include information on the criteria under which the jurisdiction is based.'*
- Recital 15: *'Transparency of media ownership is directly linked to freedom of expression, the cornerstone of democratic systems. Information relating to the ownership structure of media service providers, where such ownership results in the control or exercise of significant influence over the content of the services provided, allows the user to form a well-founded judgement on that content. Member States must be able to determine whether and to what extent information on the ownership structure of the media service provider should be accessible to the user, provided that the relevant fundamental rights and freedoms are essentially respected, and that such measures are necessary and proportionate.'*
- Recital 16: *'Given the specific characteristics of audiovisual media services and, in particular, their impact on people's opinions, users have a legitimate interest in knowing who is responsible for their content. In order to reinforce freedom of expression and thereby promote media pluralism and avoid conflicts of interest, it is important for Member States to ensure that users have easy and direct access at all times to information about media service providers. It is for each Member State to decide, in particular as regards the information that may be provided on the structure of the ownership and the beneficial owners.'*

On the other hand, the draft Royal Decree complies with the provisions of the **Regulation (EU) 2016/679** of the European Parliament and of the Council, of April 27, 2016, and both the advertising of registration seats and the processing of personal data must comply with that Regulation.

Relationship to above-ordered regulations:

This regulation is to fit in with **Spanish legal order regulating audiovisual matters** in the following way:



| | |
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| | Spanish Constitution Article 20 Article 149. 1.27 |
| | Basic Act on Audiovisual matters: Law 13/2022 of 7 July, General on Audiovisual Media |
| | Sectoral laws Law 34/1988 of 11 November, General on Advertising Law 29/2005 of 29 December, on Publicity and Institutional Communication Law 17/2006 of 5 June, on state-owned radio and television Law 55/2007 of 28 December, on Cinema Law 3/2013 of 4 June, on the creation of the CNMC |
| | Regulatory implementation Draft Royal Decree regulating the state register of audiovisual providers, the procedure for prior notification of the start of activity and the registration procedure RD 1624/2011 of 14 November, adopting the LGCA Implementing Regulation with regard to commercial television communication Royal Decree 657/2013 of 30 August, adopting the |



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| | Organic Statute of the CNMC Royal Decree 847/2015, of 28 September, regulating the State Register of Audiovisual Media Service Providers and the procedure for prior notification of the start of activity Royal Decree 988/2015 of 30 October, regulating the legal regime for the early financing obligation for certain European audiovisual works (RD 241/2019, of 5 April) |
| | Co-Regulation/Self-Regulation |

On the other hand, taken into account in preparing the draft Royal Decree:

- **Organic Law 3/2018, of 5 December, on Personal Data Protection and guaranteeing Digital Rights**: Entries shall be public and freely accessible within the limits of this Organic Law. The processing of personal data contained in the Register is also affected by the system established in this organic regulation.
- **Law 11/2022 of 28 June, General on Telecommunications Law**. The legal regime of granting public radio domains in the regime for the provision of audiovisual media services by terrestrial radio waves is taken into account when registered in the State Register.
- **Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations**, the procedures of this draft are in accordance with this Law. Likewise, the electronic management of the State Register is in accordance with the regulations established by this Law.
- **Law 40/2015, of 1 October, on the Legal Regime of the Public Sector**, the procedures of this draft, as well as the processing are in accordance with this Law. They likewise comply with Article 156 of this Law, which provides for the National Interoperability Scheme.
- **Law 3/2013, of 4 June, establishing the National Competition and Markets Commission**. This Law, together with 13/2022, of 7 July, confers the powers to be carried out by this audiovisual authority, whose coordination with MINECO is essential for the design of audiovisual policies and the monitoring and supervision of the Spanish audiovisual market, meaning it has been taken into account when providing for the elaboration of a Collaboration Agreement between the two audiovisual authorities in order to achieve the objective pursued.
- **Law 19/2013, of 9 December, on transparency, access to public information and good governance**. Regarding the regulation of public access to data and entries and transparency of the audiovisual sector.



- **Law 20/2013, of 9 December, on guaranteeing market unity.** Respect for the legal regime of prior notification and coordination of the State Register with the regional registers.
- **Law 22/2015, of 20 July, on accounts Auditing.** On the transparency of the audiovisual sector.
- **Law 37/2007, of 16 November, on the Reuse of Public Sector Information:** The Project is in line with this regulation, to the extent that all information is expected to be in electronic format, and thus it is subsequently reusable. The NTI RISP and the NTI Standards Catalogue are likewise used.
- **Law 34/2002, of 11 July, on Information Society Services and Electronic Trading.** In all those aspects not related to the dissemination of audiovisual content by the video-sharing platform provider.

Regulation to be repealed:

The adoption of this Royal Decree shall repeal Royal Decree 847/2915, of 28 September, regulating the State Register of Audiovisual Media Service Providers and the procedure for prior notification of the activity, and how many regulations of equal or lower rank contradict or oppose the provisions of this draft Royal Decree.

3. Description of the procedure.

The text of the draft Royal Decree has been submitted or shall be submitted to the following procedures:

- On 15 September 2022, the public consultation was closed prior to the preparation of this Project, held under Article 133(1) of Law 39/2015, of 1 October, and Article 26(2) of Law 50/1997, of 27 November, of the Government, convened to seek the opinion of the persons and entities potentially affected by the Royal Decree. The summary of the contributions received in this public consultation, are contained in **Annex II**.
- On 20 January 2023, the deadline for the public hearing of the regulation developed by the State Register of Audiovisual Providers ended, a procedure held in accordance with the provisions of Article 26(6) of Law 50/1997, of 27 November, of the Government, and carried out with the aim of hearing citizens and collecting any additional contributions that could be made by other persons or entities. These contributions received in public hearing and the assessment thereof are included in the **Annex III**.
- On 11 January 2023, a report was requested to the National Commission of Markets and Competition, in accordance with the provisions of Article 5(2)(a) of Law 3/2013, of 4 June, which was received on 4 April 2023. The contributions of the regulatory body and its valuation are set out in **Annex IV**.



- It shall also request a report from the Technical General Secretariat of the Ministry of Economic Affairs and Digital Transformation, and a report from the State Counsel.
- Notification within the procedure for providing information in the field of technical regulations and of rules on information-society services in the European Union (TRIS).
- In the absence of the criterion of the GTS, it is considered that the following reports should be collected, inter alia, in accordance with Article 26(5) of Law 50/1997, of 27 November:
 - Ministry of Public Administrations.
 - Ministry of Consumer Affairs. Consumer and User Association.
 - Ministry of Finance and Civil Service including prior approval.
 - Ministry of Justice. Spanish Data Protection Agency.
 - Office of Quality and Policy Coordination.
- Opinion of the Council of State shall be requested in accordance with Article 22(3) Organic Law 3/1980, of April 22, of the Council of State.

III.IMPACT ANALYSIS.

1. Adherence of the draft to the order of competence distribution.

The adoption of this draft **does not imply an impact or alteration** on the order of competence distribution within the order of competence distribution, since:

1. In accordance with the provisions of Articles 37 and 39 of Law 13/2022, of 7 July, issued in accordance with the framework of competence provided for in Article 149(1)(27) of the Spanish Constitution, which allows the coordination of a system of **competences shared between the State and Autonomous Community in matters of social media**, the draft only imposes mandatory registration in the State Register of the following providers who provide the following services in an area of state coverage:
 - Televisual audiovisual media service.
 - Public audiovisual media service.
 - Radio and sound audiovisual media service on demand.
 - Audiovisual media services aggregation services.

In accordance with Article 149(1)(21) of the Spanish Constitution, which confers on the State exclusive competence of the State in telecommunication matters, video-sharing platform service providers shall be registered in the State Register.

In accordance with Article 41 of Law 13/2022, of 7 July, the draft includes the mandate to promote the **federation of regional registers with the State Register**, in order to be able to



share the data registered in these and the changes to these with the centralised **database** of audiovisual media service and the video-sharing platform providers for which the **European Commission** is responsible. To this end, the draft aims to facilitate access, through the State Register of the entries made by the regional registers, but always with respect to what was agreed in the **cooperation agreement between the State Register and the autonomous registries** provided for in the draft and drafted in accordance with 41 of Law 13/2022, of 7 July.

2. Lastly, the draft aims to formalise a **collaboration agreement** between the Ministry of Economic Affairs and Digital Transformation and the **National Markets and Competition Commission**, as competent audiovisual authorities at the state level, in order to effectively fulfil exercising the functions entrusted to both audiovisual authorities and with regard to the distribution of competences between the Ministry and the CNMC.

2. Economic and budgetary impact.

A. Economic impacts.

1. Impact on service prices. The draft does not impose measures directly or indirectly affecting service prices.

2. Effects on productivity. The draft does not impose measures directly or indirectly affecting the productivity of providers obliged to register with the State Register.

3. Effects on employment. The draft does not impose measures directly or indirectly affecting the employment levels of providers required to register with the State Register.

4. Effects on innovation. The draft does not impose direct measures affecting innovation.

However, the draft indirectly favours innovation, since the obligation for all providers to register in the State Register, placing all those competing for the same audience at the same level, and which seeks to contribute to the creation of fairer and more balanced conditions, should translate into greater investment and innovation of all providers when creating and producing quality content to capture and retain the audience.

5. Effects on consumers. The measures of the draft Royal Decree shall directly favour consumers and users.



Indeed, the fact that they can know freely and without cost which actors are active in the state audiovisual market and what services are offered in that market makes it easier for consumers to choose with a greater degree of security in their search or consultation. As stated in recital 15 of Directive 2018/1808, the transparency of media ownership is directly linked to freedom of expression, a cornerstone of democratic systems. Information relating to the ownership structure of audiovisual media service providers, where such ownership results in the control or exercise of significant influence over the content of the services provided, allows the user to form a well-founded judgment on that content.

Therefore, the draft, with the measures relating to the registration of the different types of providers competing for the same audience and those relating to having a more detailed knowledge of the services they provide, improves legal certainty and contributes to the achievement of one of the key objectives of Law 13/2022 of 7 July and the Directive transposing: the increased protection of the users of audiovisual media services.

Consequently, the measures shall have a positive effect on consumers.

6. Impact on European and other economies.

Law 13/2022, of 7 July, maintains the system initiated by Law 7/2010, of 31 March, General on Audiovisual Media, by which, for the beginning of the provision of the audiovisual media service¹ that is not for terrestrial radio waves, it shall require only reliable and prior notification to the competent audiovisual authority.

As Directive (EU) 2018/1808 maintains the principle of country of origin in the provision of audiovisual media services, according to which, in general, it is sufficient to comply with the requirements set out in the Member State in which a provider is established to provide its services throughout the EU, the flexibility in starting the provision of audiovisual services in Spain facilitates the cross-border provision of services established in our country to other Member States, stimulating the internationalisation of providers.

Therefore, the draft, which regulates the prior notification procedure on the basis of Law 13/2022 of 13 July, facilitates the cross-border provision to other EU Member States of audiovisual services provided by providers established in Spain.

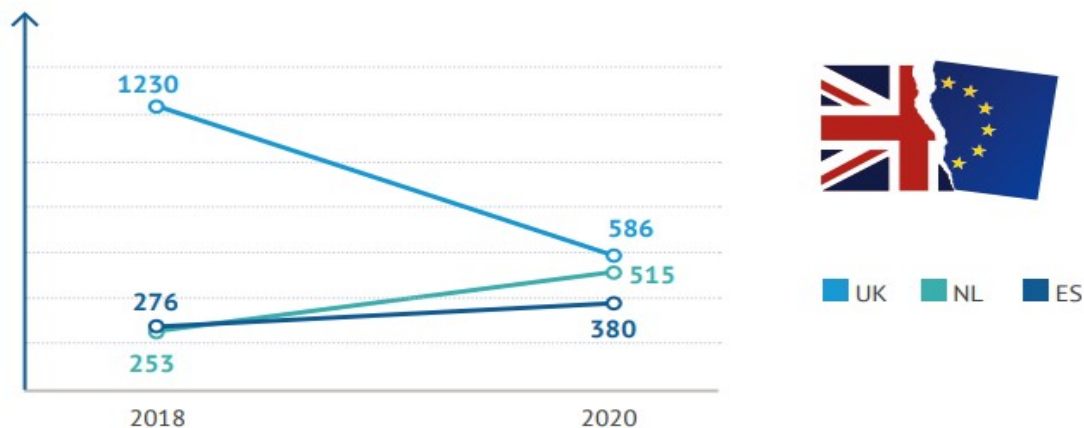
¹ Law 13/2022 of 7 July follows the in wake of Law 17/2009, of 23 November, on free access to and exercise of service activities and Law 20/2013, of 9 December, on guaranteeing market unity, which sought to simplify procedures and minimise administrative burdens on service providers, and were based on Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006, known as the Services Directive.



This is demonstrated from the European Audiovisual Observatory's Annual Report 2021/2022, which reveals that, following Brexit, the number of television channels broadcast in Europe based in the United Kingdom fell by more than 50 %, and, although the United Kingdom remains the most prominent television channel provider in Europe, of the third of television services that left the United Kingdom, 14 % migrated to Spain.

After Brexit, there was also an increase in channels aimed at markets outside the EU, with Spain ranked third behind the Netherlands and the United Kingdom. With regard to the offer of payment services, Spain has moved to fourth position after Ireland, France and the United Kingdom.

Television channels originating in the UK, NL and ES before and after Brexit (2018-2020 - In number of services)



Source: Analysis of MAVISE data by the European Audiovisual Observatory

7. Effects on SMEs. The measures set out in the draft do not harm small and medium-sized enterprises.

8. Impact on competition in the market.

Directive (EU) 2018/1808, in its search for an single audiovisual market, states that up-to-date information from the state registers of different EU Member States should be regularly shared with competent independent regulatory authorities and bodies and with the European Commission.

Law 13/2022, of 7 July, was born in the spirit of including on a level playing field, all the actors competing in the state audiovisual sector for the same audience, hence it believes, in its Article 39, a new State Register where these actors are collected.



Thus, both regulations seek to create a level playing field in which companies offer their audiovisual services at state and European level, subject to the same regulations, regardless of where the provider is located.

This draft does not introduce elements that distort market conditions, nor alter the existing competition between providers present on the market. With regard to providers, only the procedure to notify the competent audiovisual authority of start of providing audiovisual services and the data that they must provide is established, maintaining the principle of minimal intervention set out in Law 13/2022, of 7 July.

With regard to the provisions of the draft relating to the making registration entries publicly available and the re-use of such data, the draft does have a positive indirect effect, by making the audiovisual sector more transparent and a resource with considerable economic potential available to natural and legal persons.

B) Budgetary impact

1. *From a revenue point of view.* The measures contained in the draft shall not entail additional revenues for the State, since no fees are charged for registrations or the issuance of certificates.

2. *From an expenditure point of view.* The measures of the draft shall not result in an increase in the budget allocations for the Ministry of Economic Affairs and Digital Transformation, either in the form of an increase in staff costs, by possessing the active staff managing the current State Register, or in the form of an increase in other possible related costs (investment in material resources).

The development of the IT applications shall be carried out using resources already budgeted provided for in the General State Budget for 2023.

In addition, this development is part of the investments provided for in Component 11 'Modernisation of Public Administration' of the Recovery, Transformation and Resilience Plan, investments aimed at reforming and modernising public administration through the digitisation of administration and its processes, through the introduction of new technologies and simplification of procedures.

Budgetary impact on the Autonomous Communities and Local Bodies



The draft Royal Decree provides for the signing of a collaboration agreement with the Autonomous Communities that shall involve the interconnection of the regional registration data with those of the State Register so that the latter, on a federated basis, sends them to the competent body of the European Commission. Some of the Autonomous Communities keep their registers active by electronic means, meaning it did not appear that including this provision should entail a significant impact on the budgets of the regional administrations.

C. Analysis of administrative burdens.

The management of the current State Register is exclusively electronic, meaning that the charges borne by the providers of audiovisual media services are minimal, since they only contact the State Register for the notification of start of activity and for the possible modifications of their registrations, through the submission of their notifications, requests or documentation. Therefore, there is no increase in the costs related to entries in the State Register for audiovisual media service providers.

For the other providers, obliged to register in the new State Register, the administrative burdens are minimal, taking into account that they are also obliged to connect with the Administration in electronically, as laid down by Article 14 of Law 39/2015, or either they are legal persons or belong to a group of natural persons who, due to their technical capacity and professional dedication, are accredited that they have access and availability to the necessary electronic means.

In addition, the connection with the Electronic Register of the General Administration of State Powers of legal entities shall mean that those providers that are legal entities do not have to provide the document of the company's representation or authorisation.

The remainder of the tasks provided for in the draft shall fall to the Administration itself, where they do in fact increase for the body responsible for managing the State Register, not only because of the increase in the actions currently supported by the State Register by increasing the number of registered providers, but also because the functions supported by the managing body increase.

Thus, the administrative burdens to be borne by the Administration are classified as: (i) relating to the registrations themselves, which shall be carried out ex officio, the release of certificates or the issuance of consultations (ii) related to proceedings before the State Register, such as ordering the procedure for loss of provider status or sanctioning procedures, or (iii) related to the activities of collaboration and cooperation with other



bodies, institutions or public administrations, which also increases with respect to the previous regulations.

Therefore, the draft does not imply any increase in administrative burdens for the providers and yes for the public administration.

For measuring the burdens in the **Annex I**, the simplified method has been used, as set out in the following formula:

$$\text{Burden measurement} = \text{Unit Cost} \times \text{Frequency} \times \text{Population (EUR/Year)}.$$

3. Gender impact.

The draft does not contain any measures aimed at curbing discrimination or enhancing equal opportunities for men and women, as well as equal treatment. It should be noted that the State Register contains the obligation under Article 37 of Law 13/2022 of 7 July that audiovisual media service providers register the number and proportion of female members of the company's administrative body.

4. Other impacts.

The draft has no impact on children and adolescents, on the family, due to climate change or equal opportunities, non-discrimination and universal accessibility of persons with disabilities, although in the latter aspect it establishes as obligatory data the identification of subtitling, audio-description and sign language services.



ANNEX II: ANALYSING THE CONTRIBUTIONS SUBMITTED TO THE PUBLIC CONSULTATION PRIOR TO PREPARING THE DRAFT

This includes the questions that were raised, as well as the contributions submitted by the different associations, entities, companies or providers, on different issues:

I. PROBLEMS AIMED TO BE SOLVED BY THE INITIATIVE.

| Question 1: What information do you consider useful to appear in the State Register with respect to audiovisual media-service aggregation service providers? | |
|---|--|
| Contributor | Contribution made |
| FRANCO & FRANCO | Only include data not appearing in the Commercial Register and that may affect it, such as the brands and services provided. |
| LA PANTALLA DIGITAL | The same information as the rest, including registered office and fiscal address and means of contacting them. |
| AMETIC (Spanish Association of Electronics, IT, Telecom and Digital Content Services Companies) | Include in Article 39 LGCA, indication that providers not established in Spain are excluded from the obligation to register in the State Register. |
| UTECA | Details permitting identification. Contact details making locating it possible. Territorial scope. Description of technologies, networks and URLs. Updated information |
| CONECTA | Data allowing easy and clear segmentation between providers. |
| MEDIASET | Information necessary for allowing the supervision and monitoring of compliance with LGCA obligations (European Work Contribution or RTVE funding). |
| ORANGE | The name of each of the products offered, including a general description of what they contain. |

| Question 2: What information do you consider useful to appear in the State Register with respect to video-sharing platform providers? | |
|--|---|
| Contributor | Contribution made |
| FRANCO & FRANCO | For foreign and platforms with no office in Spain: Details of the Commercial Register and description of its activities in Spain |
| LA PANTALLA DIGITAL | The same information as the rest, including registered office and tax residence, and means of contact. Registration of EU-based foreign providers whose services are directed to Spain and based in the UK. This would also apply to foreign audiovisual media service providers. |
| AMETIC (Spanish Association of Electronics, IT, Telecom and Digital Content Services Companies) | Since they do not have editorial control over the content published by their users, Article 37 of the LGCA should not apply to them. Include in Article 39 LGCA, indication that providers not established in Spain are excluded from the obligation to register in the State Register. |
| VODAFONE | (i) Place in which the administrative management and management of its business is centralised (where editorial decisions are made or from where the staff carrying out the programming activity works) (ii) Identification of parent companies, subsidiaries or of whatever the provider might be part. Identification of the corporate website. |
| UTECA | Details permitting identification. Contact details making locating it possible. Territorial scope. Description of technologies, networks and URLs. Updated information |



| | | | |
|------------|---|--|--|
| CONECTA | | SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES | Contact details for complaints of intellectual property infringement. |
| MEDIASET | necessary for allowing the supervision and monitoring of compliance with LGCA obligations (European Work Contribution or RTVE funding). | | Information |
| TELEFONICA | Collecting separately or in a disaggregated way in the same category social networks. Including all providers offering services in Spain, regardless of where they are based or making programming decisions. | | |

Question 3: What information do you consider useful to appear in the State Register with respect to users of particular relevance to video-sharing platform providers?

| Contributor | Contribution made |
|---|---|
| FRANCO & FRANCO | As natural persons, your data should not be accessible to the general public. Non-publication of registered address (to be replaced with the association/management address) |
| LA PANTALLA DIGITAL | The same information as the rest, including registered office and fiscal residence and means of contacting them. |
| AMETIC (Spanish Association of Electronics, IT, Telecom and Digital Content Services Companies) | Include in Article 39 LGCA, indication that providers not established in Spain are excluded from the obligation to register in the State Register. |
| VODAFONE | Target audience of the service, type of content, means of dissemination and information that allows to determine whether it is established in Spain in accordance with Article 3(2) LGCA. |
| UTECA | Details permitting identification. Contact details making locating it possible. Territorial scope. Description of technologies, networks and URLs. Updated information |
| CONECTA | Data allowing easy and clear segmentation between providers. |
| MEDIASET | Information necessary for allowing the supervision and monitoring of compliance with LGCA obligations (European Work Contribution or RTVE funding). |
| TELEFONICA | They should specify the different platforms and social networks on which they participate, and the accounts with which they provide services on each of them. |

Question 4: How do you believe that registration should be considered for those providers who are simultaneously of different service types?

| Contributor | Contribution made |
|---------------------|---|
| LA PANTALLA DIGITAL | All services provided by the provider (linear and non-linear) should be indicated in the same section. |
| VODAFONE | There should be general information on the provider and another specific information of each of the services |
| UTECA | Single registration detailing all the services you provide and the technologies and networks you use. |
| CONECTA | They must appoint an intellectual property infringement complaint manager and hand it over to Register. |
| MEDIASET | Whether traditional or new operators regulated by law, this should be done individually for each service it provides. |
| TELEFONICA | The same company name is represented in the different categories in which it offers the service, providing a more accurate picture. |
| ORANGE | The provider must register in each of the categories. |



| Question 5: Do you | | SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES | consider that the |
|---------------------|--|--|---|
| Contributor | | | Contribution made |
| LA PANTALLA DIGITAL | content and outside the Register. The current Register is not valid for the CNMC, since it only supervises 3 to 4 %. | | There are more than 300 platforms of all kinds of |
| TELEFONICA | The current State Register does not have a history of the provider or its services. Difficulty in searches (expanding filters and allowing information download) | | |

| Question 6: What new registration data would make it possible to improve the transparency of the audiovisual media market and user protection? | |
|--|--|
| Contributor | Contribution made |
| LA PANTALLA DIGITAL | In addition to the data on the providers, those offering European production or funding them, or RTVE should be collected. |
| UTECA | Incorporating definitions. Drop-down options list. Enabling system for communicating lack of accuracy in Register data and providing information from third parties. |
| CONECTA | Person responsible for complaints of intellectual property infringement. Change 3 % of the share capital laid down by Article 38(1)(a) LGCA as a significant shareholding. |
| MEDIASET | The contact details of operators should be included. so that any individual or interested party can contact for any query or action |
| TELEFONICA | All obliged subjects must provide the same information as existing providers. Updating information (frequency). |
| TELEFONICA | Adding a link to the decisions of the CNMC and on issues in which CNMC performs some surveillance in exercising its competence in audiovisual matters. |
| ORANGE | As a content aggregator, including product naming and description of the services they add in each product would suffice. |

| Question 7: Do you consider the public data of the current State Register to be easy to access and use? | |
|---|---|
| Contributor | Contribution made |
| LA PANTALLA DIGITAL | Model unclear. Data cumbersome to understand and at times shortcomings. Follow BBDD MAVISE model and export XSL, XLSX Excel system or CVS files. |
| VODAFONE | Easy access, but usability would be improved with a user manual that collects periodic updates of operation of the Register, procedure and requests. |
| UTECA | Improve accessibility with the Register website appearing in Google searches and direct visible links in the different URLs of the MINECO website. Regarding the application, there are problems in changing the members of the administrative body, searches, format of download files and adaptation of browsers. |
| CONECTA | Easy access and use for Spanish-speaking people. It would be improved if the data were available in English, and the possibility of downloading registration certificates in English. |
| ORANGE | Easily accessible public data, although they do not reflect the audiovisual mode of each of the providers. |

| Question 8: How do you think that the accessibility and usability of public data in the new State Register could be improved? | |
|---|--|
| Contributor | Contribution made |
| TELEFONICA | Developing the history, the quality of the information contained or improving access to information by passing to text the information of the logos. |
| ORANGE | The registration must be easily editable and being easily allowed to register, unsubscribe and change the products. |

II. OBJECTIVES OF THE REGULATIONS.

| Question 9: Do you consider that the current State Register is agile in relation to the its entry and amendment system? | |
|---|-------------------|
| Contributor | Contribution made |



| | |
|------------|--|
| CONECTA | Member States to chosen Spain as the country of choice for their jurisdiction. |
| TELEFONICA | It is deemed agile and not complex |

Question 10: How could we improve the speed of registrations and amendments of the new State Register without prejudice to the necessary legal certainty?

| Contributor | Contribution made |
|---------------------|--|
| LA PANTALLA DIGITAL | Proposes improving agility with electronic forms |
| UTECA | Documentation to be provided only at the justified request of the Register |
| CONECTA | Technological development allowing access and signature through any browser and that the tax identification number format adapts to that of other nationalities. |
| ORANGE | The 'State Register entry number' should be deleted. Any current limitations on amending the status of requests should be removed. |

Question 11: Do you deem it necessary for the provider to justify the service provided and the technology used by providing supporting documentation

| Contributor | Contribution made |
|---------------------|--|
| LA PANTALLA DIGITAL | It is sometimes necessary to justify the service provided and compliance with it to the LGCA. |
| CONECTA | It is not recommended that the provider should justify either the service provided or the technology provided, as it is an additional bureaucratic burden on the provider. |
| TELEFONICA | In cases where necessary. Similarly, if there are significant changes requiring additional documentation, respecting the principle of proportionality. |
| ORANGE | It is not necessary for the provider to justify the service provided by means of supporting documentation. A statement by the service provider would be sufficient. |

Question 12: How could the permanent update of the new State Register be improved by limiting administrative burdens on providers?

| Contributor | Contribution made |
|---------------------|---|
| LA PANTALLA DIGITAL | If the Administration (and the CNMC) are unable to familiarise themselves with suppliers and services, subcontract private companies |
| UTECA | Providing less information. Making references to providers' URLs, public records or publications. It is not necessary to incorporate data required in the LGCA. |
| CONECTA | Could be improved by sending regular half-yearly reminders requesting the revision of data entered |
| ORANGE | In order to limit administrative burdens, it should be necessary to update only the mode of service provision and, if it has this, editorial responsibility. |

Question 13: Do you believe that the current State Register contains systematic and uniform information on providers, or do you see a need to improve these aspects?

No contributions

Question 14: What measures do you propose for promoting the federation of the State Register with the Autonomous Registers?

| Contributor | Contribution made |
|-------------|-------------------|
|-------------|-------------------|



MINISTRY OF
ECONOMIC AFFAIRS AND
DIGITAL TRANSFORMATION

STATE SECRETARIAT FOR TELECOMMUNICATIONS AND
DIGITAL INFRASTRUCTURE

GENERAL SECRETARIAT FOR TELECOMMUNICATIONS AND
THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES

SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF
AUDIOVISUAL MEDIA SERVICES

It is proposed to
create a single
Register model
agreed with the
Autonomous

| | | |
|---------------------|---|--|
| LA PANTALLA DIGITAL | Communities. | |
| MEDIASET | Coordinating between registers would be useful, so that information relevant to all registers is kept up to date at all times. | |
| TELEFONICA | Promoting the registration in the State Register and internal coordination with the autonomous registers. Having the information available by geographical scope. | |

| Question 15: What measures do you propose for facilitating the interoperability of the State Register and the Autonomous Registers? | |
|---|---|
| Contributor | Contribution made |
| LA PANTALLA DIGITAL | Using the same tools is proposed. |
| VODAFONE | Procedures, tools, common systems and a centralised database. Measures for facilitating interoperability: (i) that the channel to be coordinated to ensure cooperation has as an integral quality interoperability, (ii) that technical standards, common infrastructures and services and generic tools are used to facilitate the dynamisation, simplification and multilateral relationship, (iii) that their communications use the SARA Network, (iv) and have certification service providers and common certification and electronic signature validation platforms. |



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SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF
AUDIOVISUAL MEDIA SERVICES

III. POSSIBLE ALTERNATIVE REGULATORY AND NON-REGULATORY SOLUTIONS.

| Question 16: Do you deem it more appropriate to amend the current regulation in order to solve the problem analysed and achieve the objectives set out, or to draft a new regulation? | |
|---|---|
| Contributor | Contribution made |
| LA PANTALLA DIGITAL | A new regulation should be prepared updating the new audiovisual reality of the Directive and the LGCA. |
| VODAFONE | Broadening the obliged subjects could be saved by the amendment of the current regulation. |
| UTECA | Creating a new Regulation is appreciated |
| ORANGE | Drawing up a new regulation is unnecessary. Only modifying content and editability of the existing Register to solve existing problems. |



ANNEX III: ANALYSING THE CONTRIBUTIONS SUBMITTED TO THE PUBLIC HEARING

The contributions of stakeholders will then be analysed with their respective assessment, although the following should be noted:

- This analysis has been structured in each of the Titles of the Preliminary Draft and, within them, by articles.
- The numbering of the text in this document corresponds to that of the text submitted to the public hearing procedure. It should be borne in mind that the draft Royal Decree has been restructured, resulting in a change in the numbering of certain articles and chapters.
- All the comments received in this procedure have been assessed, although, in this document, they indicate those valued favourably – in whole or in part – and those rejected that have been considered of special interest for the general understanding of the draft Royal Decree.

STATEMENT OF REASONS AND PRELIMINARY TITLE: GENERAL PROVISIONS.

| CONTRIBUTION | STAKEHOLDER | EVALUATION |
|--|---------------------|--|
| Statement of reasons: spelling correction | ATRESMEDIA | Accepted |
| Article 2. Obligatory registration of foreign providers accessible in the State with obligations according to the LGCA | LA PANTALLA DIGITAL | It is not accepted due to breaching the country of origin principle. |
| Article 3. New wording: ' <i>The references in this Royal Decree to the audiovisual media service providers shall be understood to be made to the providers of the linear television audiovisual media service and on demand or not linear, radio and sound at the request of the State level, and to the providers of the public audiovisual media service at the state level</i> '. <i></i> | CONECTA | Accepted. |

TITLE I. LEGAL STATUS OF THE STATE REGISTER.

CHAPTER I. General provisions.

| CONTRIBUTION | STAKEHOLDER | EVALUATION |
|---|---------------------------------------|--|
| Article 4. Include a brief mention of whether the subjects listed in Article 94(3) LGCA, exempt from the obligations of Article 94(1) LGCA, should register, and how. | DIGITAL INFORMATION AND DISSEMINATION | Not accepted. Subject-matter of a specific |



| SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES | | regulation |
|---|---|--|
| Article 4. Decide on the registering the media that broadcasts information spaces through Twitch or YouTube. When providing an audiovisual service with editorial control but over the Internet and without complying with the requirements of Article 94(2) LGCA | DIGITAL, INFORMATION AND DISSEMINATION | Not accepted. Subject-matter of a specific regulation. |
| Article 4. Compulsory registration of foreign providers accessible in the State with obligations in accordance with the LGCA | LA PANTALLA DIGITAL | It is not accepted due to breaching the country of origin principle. |
| Article 4(2) For greater legal certainty, include subsection indicating video-sharing platform providers not established in Spain are excluded from the obligation to register in the State Register. | AMETIC (Spanish Association of Electronics, IT, Telecom and Digital Content Services Companies) | Not accepted. The rules on the scope of application are specified in Article 3 of Law 13/2022. |
| Article 4(2)(a). Include references ' <i>linear and on-demand or non-linear</i> ' | CONECTA | Not accepted. It is clarified in Article 3. |
| Article 7. Progressing to a more modern and simple technical environment for handling and downloading in XML formats. | LA PANTALLA DIGITAL | Accepted. Request included in the technical specifications of the IT application not in the draft RD |

CHAPTER II. Organisation and operation of the State Register.

| CONTRIBUTION | STAKEHOLDER | EVALUATION |
|--|---------------------|--|
| Article 9 and 12. Compulsory registration of foreign providers accessible in the State with obligations in accordance with the LGCA | LA PANTALLA DIGITAL | It is not accepted due to breaching the country of origin principle. |
| Article 10 and 11. Include the obligation that if one provider offers audiovisual services in more than one of the four categories identified, the provider must register in each of the categories indicated for this to be recorded on its registration sheet. | ORANGE | Accepted |
| Article 10(1) Article 4(1) of this Royal Decree is referred to several times. They understand that it is an error, and that the references should be to paragraph 2 of the same article. | CONECTA | Accepted |
| Article 10. Spelling correction | ATRESMEDIA | Accepted |
| Article 12. Include the residence of the corresponding country of foreign providers operating and offering services in Spain | LA PANTALLA DIGITAL | Not accepted |
| Article 12(1) Do not include the logo as data of the provider that can be registered, since it may not exist. If is done, standard proportions. | LA PANTALLA DIGITAL | Not accepted. It is important for |



| | | ensuring transparency in the audiovisual sector. |
|--|---------------------|---|
| Article 12(2)(e) Do not include corporate website, since there are providers not owning it or only working through applications for devices | LA PANTALLA DIGITAL | Not accepted |
| Article 12(1) Registering or monitoring with the identity and contact details of the providers based outside Spain, and on which the LGCA, imposes some type of obligation, in order for fulfilling these obligations to be effective. In particular, they would be (i) video-sharing platform service providers that, being established in other EU Member States, offering services specifically aimed at the national territory, for the purpose of paying the Contribution to CRTVE, and (ii) providers of linear or on-demand audiovisual media services established in other EU Member States directing their services to Spain, for the purposes of the advance financing obligation for European audiovisual works | MEDIASET | It is not accepted due to breaching the country of origin principle. |
| Article 12(e) and (h). Include the option to register the data of the Commercial Register. Comply with the obligation to provide data relating to the administrative body, owners of significant holdings, and the number and proportion of female members of the administrative body, indicating the website on which this information appears. | ATRESMEDIA | Not accepted. These involve different obligations. |
| Article 13. Define more broadly the thematic nature of the SCA included under the category 'OTHER' | LA PANTALLA DIGITAL | Partly accepted. The topics shall be further elaborated. |
| Article 13. Regarding SCAs on demand over the Internet that do not use web or domain, collecting the application (mobile, Smart TV, etc.) | LA PANTALLA DIGITAL | Accepted. |
| Article 13. In relationship to the aggregation service, with regard to the detail of each of the packages, explicitly declare who holds the editorial responsibility of each of the channels they add. When mentioning 'services', include that they are referring to channels that integrate the packages offered. | ORANGE | Accepted |
| Article 13. Delete sub-paragraph 4 of point (i) of paragraph 1, since they do not deem it necessary or advisable that the provider should justify the service that is public and easily verifiable, nor the technology used that is irrelevant to the user, by means of providing additional supporting documentation since it would create a bureaucratic burden on the provider. | CONECTA | Not accepted. There are foreign public providers that must be identified. |
| Article 13. It is not understood what you want to ask with ' <i>objective audience of the service</i> ', or with ' <i>identification of subtitling, audio-description and sign language services</i> ', whether it is the symbols used for these services, or if they are included in any of the contents. Nor does it make sense to request an indication of whether the radio service is broadcast on a chain, by registering only in the State Register the radio services of a greater scope than a Autonomous Community. | ATRESMEDIA | Partly accepted. The data to be entered will be clarified. |
| Article 14. Include a statement that the application and issuance of the certificates will be free of charge. They also understand that it would be useful for the Register to offer the possibility of downloading a certificate in English containing all the information it includes. | CONECTA | Not accepted. The free nature is indicated in the regulation. |
| Article 14. The requirement of legitimate interest to request certifications could be contradictory for the purpose of the Register declared in Article 4(3) of the Regulation and with the fact that the registration entries are ' <i>public and freely accessible for consultation by any person</i> ', as specified in Article.7(1). | ATRESMEDIA | It is not accepted, on the basis of the proportionality criterion. |



TITLE II. PROVISIONS ON PROCEDURES WITH THE STATE REGISTER.

Chapter I. Prior notification of the start of activity.

| CONTRIBUTION | STAKEHOLDER | EVALUATION |
|---|-------------|------------------|
| Article 18(2) The information required is exponentially superior to that required by current regulations, meaning the inaccuracy or omission of the aforementioned information should not be sufficient cause to nullify the prior notification. It is an excessive measure that may lead to legal uncertainty, and should be limited to an administrative penalty. | CONECTA | Partly accepted. |
| Article 19. It is better to replace the reference that the prior notification must be registered in the State Register ' <i>in accordance with the provisions of Chapter III of Title II of the Royal Decree</i> ', with ' <i>this title is part of Title II</i> '. | ATRESMEDIA | Accepted |

CHAPTER II. Procedure for loss of provider status.

| CONTRIBUTION | CURRENT ARTICLE | STAKEHOLDER | EVALUATION |
|---|-----------------|-------------|---|
| Article 20(2) The information required is exponentially higher than that required by the current regulations, meaning the inaccuracy or omission of the aforementioned information should not be sufficient cause to the loss of audiovisual media service provider status. It is an excessive measure that may lead to legal uncertainty, and should be limited to ADMVA sanction. | Article 27 | CONECTA | Not accepted. This is a provision contained in Article 20(1) of Law 13/2022, of 7 July. |

CHAPTER III. Procedures for registering and amending of entries



MINISTRY OF
ECONOMIC AFFAIRS AND
DIGITAL TRANSFORMATION

STATE SECRETARIAT FOR TELECOMMUNICATIONS AND
DIGITAL INFRASTRUCTURE

GENERAL SECRETARIAT FOR TELECOMMUNICATIONS AND
THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES

| CONTRIBUTION | SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES | EVALUATION |
|--------------|--|---|
| Article 24. | | It is not accepted due to breaching the country of origin principle. |

TITLE IV. Cooperation and administrative collaboration of the State Register.

| CONTRIBUTION | STAKEHOLDER | EVALUATION |
|--|-------------|--|
| Those services the scope of which is outside national territory must also be registered. | CONECTA | It is not accepted due to breaching the country of origin principle. |



ANNEX IV. ANALYSING THE CONTRIBUTIONS MADE BY THE CNMC **(REPORT IPN/CNMC/004/23)**

Paragraph 6 contains the **positive assessment of the draft Royal Decree**, although a number of recommendations are made, which have been classified in accordance with the structure of the aforementioned draft.

Previous: when talking about 'platforms' it refers to 'video-sharing platform service providers', whereas when talking about 'vloggers' we refer to 'users of video-sharing services platform services'.

TITLE I. LEGAL REGIME OF THE STATE REGISTER.

Chapter I. General provisions.

| Contribution | Evaluation |
|---|---|
| <u>Article 4. Aim and purpose of the State Register.</u> Clarify situation with regard to registered providers not offering services in Spain (CNMC Report paragraph 5.1). | The requirements for audiovisual media service providers to establish in Spain are laid down in Article 3 of Law 13/2022 of 7 July. |
| <u>Article 7: Formal disclosure of the State Register and personal data protection.</u> (CNMC Report paragraph 5.4). <ul style="list-style-type: none">➤ Specify in the regulation whether there will be limitations on accessing the information contained in the Register, and which.➤ Provide a reasoned explanation of what specific information will be accessible to the general public, among those indicated in Additional Provision 4(3) LGCA and Article 12 of the draft (especially 2(d)). | Not accepted. The limits are set by data protection and transparency regulations. |
| <u>Article 10. Structure of the State Register.</u> (CNMC Report paragraph 4.3) Separate classification of providers and services associated with video or audio image , for swifter and more homogeneous knowledge of the sector by type of service, and avoiding confusion in the sector and users | Accepted. |



Chapter II. Organisation and operation of the State Register.

| Contribution | Evaluation |
|---|--|
| <p><u>Article 12. Data and deeds of the provider that can be registered.</u> Specifying data of the provider (<i>CNMC Report paragraph 5.5</i>)</p> <ul style="list-style-type: none">➤ Absence in paragraphs 1(e), 1(f), 2(a) and 4 of the draft, of the data contained in Additional Provision 4. 3 LGCA (data of representatives and owners of significant holdings in the capital of audiovisual media service providers or of video-sharing platform service providers).➤ Contact information should be included in Article 12, so that users can contact video-sharing platform service providers for the purposes of Article 89(1)(b) and (g).➤ Article 12(1)(f) should specify that personal data should be held by the members of the administrative body (unless this involves is a member who is a legal person).➤ Article 12(2)(b) provides for the inclusion of documents relating to legal transactions of audiovisual media services.➤ It is deemed appropriate to establish the information to be provided in the case of providers who have lost their status and the period within which this information should be made available to the general public. | <p>Partly accepted. Additional Provision 4(3) does not apply to the administrative body. Contact telephone number is added in the case of representatives but, due to the principle of minimisation, these data are not necessary in the case of holders of significant holdings Article 37(3)(a) and 38 applies to SCA providers only.</p> <p>Already included in Article 12(5)</p> <p>Accepted. We delete 'composition', and it is specified that the data corresponds to the members.</p> <p>Not accepted. Inclusion in the computer application of the Register of Providers.</p> <p>It is not accepted, since this article is related to the data to be provided by the provider, and what is proposed will be the subject of the collaboration agreement to be concluded between MINECO-CNMC under Article 153 LGCA.</p> |
| <p><u>Article 13. Device details that can be registered.</u></p> <ul style="list-style-type: none">• REGISTERED PROVIDERS NOT OFFERING SERVICES IN SPAIN. (<i>CNMC Report paragraph 5.1</i>).<ul style="list-style-type: none">➤ Specify service areas and coverage, with a map being. Please note the location of the Canary Islands, Ceuta and Melilla. | <p>Not accepted. The subject matter of the IT application, where applicable.</p> |



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| <ul style="list-style-type: none"> • IDENTIFICATION OF ACCESSIBILITY SERVICES IN THE REGISTER. (CNMC Report paragraph 5.2) <ul style="list-style-type: none"> ➤ Replace Article 13(1)(g) with the indication that providers are subject to compliance with obligations aimed at facilitating access for persons with disabilities to audiovisual content. • SPECIFICATION OF DATA ON THE SERVICE TO BE REGISTERED (CNMC Report paragraph 5.6). <ul style="list-style-type: none"> ➤ Assess why Article 13(2) providers should not provide the data in points (b) (date of start and cessation of broadcasting) and (h) (broadcasting schedule) of Article 13(1). • USE OF TECHNICALITIES (CNMC Report paragraph 5.12). <ul style="list-style-type: none"> ➤ Article 13(1) uses a technical vocabulary on which no specification is incorporated, and negatively influencing the transparency of the law, since those addressed are not experts in the sector. | <p>Partly accepted.</p> <p>The information concerns the provider and the services.</p> <p>Partly accepted. Yes to the start date, but the broadcasting schedule does not tie in with the nature of the rest of the providers.</p> <p>Partial acceptance. In any case, the obliged subjects are specialists in the provision of SCA</p> |
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TITLE II. PROVISIONS ON PROCEDURES WITH THE STATE REGISTER.

Chapter I – Notification prior to the start of activities.

| Contribution | Evaluation |
|---|---|
| <u>Article 16. Presentation of the prior notification of the start of the service. (CNMC Report paragraph 5.3).</u> Extend the obligation to designate a representative registered in Spain for the purposes of notifications (positively assessed), to platforms and aggregators (using the generic term 'providers' or with an independent article). | Not accepted. |
| <u>Article 18. Advance notification rendered invalid. (CNMC Report paragraph 5.7).</u> <ul style="list-style-type: none"> ➤ Article 18(2) To assess the removing the inclusion of Article 69(4) of Law 39/2015, of 1 October, as a cause of prior notification without effects, since it can lead to the breach of the duty of registration. ➤ Article 18(3) Specify cases in which a new procedure may not be instituted for a two-year period. The following causes are proposed: document fraud, repeated prior sanctions and/or minor regulatory violations. | <p>Accepted.</p> <p>Partly accepted. In the most serious cases.</p> |



Chapter II. Procedure for loss of provider status.

| Contribution | CURRENT ARTICLE | Evaluation |
|--|-----------------|---|
| <p><u>Article 20. Causes of the loss of validity of provider status acquired through prior notification of the start of activities.</u></p> <ul style="list-style-type: none">• LOSS DUE TO INACCURACY, FALSIFICATION OR OMISSION OF ESSENTIAL DATA. (CNMC Report paragraph 5.8)<ul style="list-style-type: none">➤ It would be necessary to make a reference to Article 69(4) of Law 39/2015, of 1 October.➤ Assess whether the provisions of that article would apply to providers, by making it impossible to continue exercising the right or activity and, consequently, losing their provider status. | Article 27 | <p>Not accepted. This is a development of Article 20 LGCA, which already includes the mention of Article 69(4) LPAC.</p> <p>Not accepted. Provision included in Article 18.</p> |

Chapter III. Procedures for registering and amending entries.

| Contribution | CURRENT ARTICLE | Evaluation |
|--|-----------------|---|
| <p><u>Article 25. Nature of registration. (CNMC Report paragraph 5.9).</u></p> <p>Replace the expression 'request for entry in the Register' with 'notification to the Register'.</p> | Article 21 | <p>Not accepted. It could lead to confusion between 'prior notification of the start of activities' and 'notification to the register'. This concerns a 'request for entry' which in no case implies authorisation.</p> |
| <p><u>Article 26. Practice of the first entry in the State Register.</u></p> <ul style="list-style-type: none">• REGISTRATION OF AGENTS NOT SUBJECT TO PRIOR NOTIFICATION (PLATFORMS, AGGREGATORS, VLOGGERS) (CNMC Report paragraph 5.10).<ul style="list-style-type: none">➤ Specify deadlines or conditions for making the corresponding notification, in accordance with Article 69(3) of | Article 22 | <p>Accepted.</p> |



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| Law 39/2015. | SUBDIRECTORATE-GENERAL FOR THE ORGANISATION OF AUDIOVISUAL MEDIA SERVICES | |
| <p><u>Article 28. Entering the provider in the State Register.</u></p> <ul style="list-style-type: none">• DEADLINE FOR REQUIREMENTS AND VERIFICATION (CNMC Report paragraph 5.11)<ul style="list-style-type: none">➤ Set maximum deadline for the administration to examine and verify the requirements and proceeding to the entry. In this sense, Article 18(3) concerning prior notification without effect, establishes a three-month period that could serve as a reference with respect to the absence of a time limit in Article 28. | Article 24 | Not accepted. Subject to the general deadline of common administrative procedure. |

Transitional Provision XX. Extension of age-rating criteria (CNMC Report paragraph 5.13).

| Contribution | Evaluation |
|--|--|
| It is requested to develop the second transitional provision of the LGCA in the Register Draft RD, explicitly stating validity extension to the age-rating criteria adopted by CNMC de of 9 July 2015, with the exception of the category 'Specially recommended for minors', pending approval of the co-regulation agreement provided for in Article 98(2) of the LGCA. | Not accepted. This is not covered by the Royal Decree. |