**Response to tris notification 2023/0755/ES**

*egta is the media trade body for television and radio advertising, representing over 170 companies in Europe and beyond. egta members come from both public and private sectors and cover respectively 75% and 50% of the total TV and radio ad spend in Europe, thus playing a fundamental role in the sustainable funding of the European audiovisual and radio industries.*

\*\*\*\*\*\*\*\*\*\*

On behalf of egta – association of television and radio sales houses (transparency register number 1977807375-62), we are writing to you regarding the TRIS notification 2023/0755/ES – Draft Royal Decree regulating the requirements in order to be considered a user of special significance for the purposes of the provisions of Law 13/2022 of 7 July 2022, General Audiovisual Communication.

Several issues regarding this text have come to our and our members’ attention.

**introduction of unjustified discrimination**

First and foremost, the proposed text fails to create a proper level-playing field, despite its objective of establishing the same rules for all actors competing for similar audience and advertising. It indeed excludes, in its article 2(3), audiovisual media service providers ‘in relation to programmes, audiovisual content and/or extracts thereof that are made available to the public in the video-sharing platform services’. Enforcing such a provision would thus result in an unjustified discrimination, as an audiovisual communication service provider meeting the ‘users of special relevance’ as defined in the text should normally be considered as such and be subject to equal treatment.

**revenue and followers thresholds hindering any practical effect**

In its scope, the proposed text introduces high thresholds for revenue and average number of followers (articles 3 and 4). In practice, this would amount to the exclusion of many potential relevant users who nonetheless have an impact on the audience and the advertising market. This threshold of 300.000 euros leaves micro-influencers aside, despite them making up the majority of influencers. Similarly, the cumulative requirements to justify a significant audience poorly reflects the reality of the market: setting the bar between 1.000.000 and 2.000.000 followers is already aiming at the influencers with the largest audiences, and thus a specific minority of influencers. Overall, the proportionality and rationale behind those threshold fails to illustrate accurately the reality and would result in this Decree having no teeth and no meaningful effect due to a scope being unadapted to its own objectives.

We therefore would like to raise those concerns to the European Commission and encourage them to assess the provisions of this Royal Decree. As it stands, it would concern only a few influencers, leaving the majority of them unregulated despite them having still a significant and growing impact on the advertising market, as they are directly competing with audiovisual communication service providers but under different, and most favourable, rules. Regulating influencers and setting proper standards requires all relevant actors to be concerned by the text at hand, taking into account the reality of the market and benchmarks from established standards used widely by professionals in the sector.

We thank you for your time and consideration and remain at your disposal should you want to discuss our concerns further.

Yours sincerely,

egta – Association of television and radio sales houses