**Unofficial GRS translation of article 94 of General Audiovisual Communication Law 13/2022, of July 7**

<https://www.boe.es/eli/es/l/2022/07/07/13>

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| **Original Spanish** | **EN translation** |
| **Artículo 94. Obligaciones de los usuarios de especial relevancia que empleen servicios de intercambio de vídeos a través de plataforma.**  1. Los usuarios de especial relevancia que empleen servicios de intercambio de vídeos a través de plataforma se considerarán prestadores del servicio de comunicación audiovisual a los efectos del cumplimiento de los principios del título I conforme a lo establecido en el artículo 86 y de las obligaciones para la protección de los menores conforme a lo establecido en los apartados 1 y 4 del artículo 99. Asimismo, tales usuarios deberán respetar lo dispuesto en las secciones 1.ª y 2.ª del capítulo IV del título VI cuando comercialicen, vendan u organicen las comunicaciones comerciales que acompañen o se inserten en sus contenidos audiovisuales.  Los usuarios de especial relevancia tomarán aquellas medidas adecuadas para el cumplimiento de estas obligaciones y utilizarán los mecanismos que el prestador del servicio de intercambio de vídeos a través de plataforma pone a su disposición, en particular, los establecidos en los artículos 89.1.d) y 91.2.b).  2. A los efectos de esta ley, tendrán la consideración de usuarios de especial relevancia aquellos usuarios que empleen los servicios de intercambio de vídeos a través de plataforma y cumplan de forma simultánea los siguientes requisitos:  a) El servicio prestado conlleva una actividad económica por el que su titular obtiene unos ingresos significativos derivados de su actividad en los servicios de intercambio de vídeos a través de plataforma;  b) El usuario de especial relevancia es el responsable editorial de los contenidos audiovisuales puestos a disposición del público en su servicio.  c) El servicio prestado está destinado a una parte significativa del público en general y puede tener un claro impacto sobre él.  d) La función del servicio es la de informar, entretener o educar y el principal objetivo del servicio es la distribución de contenidos audiovisuales.  e) El servicio se ofrece a través de redes de comunicaciones electrónicas y está establecido en España de conformidad con el apartado 2 del artículo 3.  3. En ningún caso se entenderán sometidos a las obligaciones del apartado 1 los siguientes sujetos:  a) Centros educativos o científicos cuando su actividad entre dentro de sus cometidos o esta sea de carácter divulgativo.  b) Museos, teatros o cualquier otra entidad cultural para presentar su programación o actividades.  c) Administraciones públicas o partidos políticos con fines de información y de presentación de las funciones que desempeñan.  d) Empresas y trabajadores por cuenta propia con el fin de promocionar los bienes y servicios producidos o distribuidos por ellas.  e) Asociaciones y organizaciones no gubernamentales con fines de autopromoción y de presentación de las actividades que realizan de acuerdo con su objeto.  4. Los usuarios de especial relevancia en los servicios de intercambio de vídeo a través de plataforma deberán inscribirse en el Registro estatal de Prestadores de Servicios de Comunicación Audiovisual previsto en el artículo 39.  5. A efectos del cumplimiento de las obligaciones previstas en el apartado 1 se fomentará la adopción de códigos de conducta de auto y corregulación previstos en el artículo 15 por parte de los usuarios de especial relevancia de los servicios de intercambio de vídeos a través de plataforma, las asociaciones que los agrupen o sus representantes. | **Article 94. Obligations of users of special relevance who deploy video sharing services via the platform.**  1. Users of special relevance who use video exchange services via the platform will be considered providers of the audiovisual communication service for the purposes of compliance with the principles of Title I in accordance with the provisions of article 86 ***(see below A)*** and the obligations related to the protection of minors in accordance with the provisions of sections 1 and 4 of article 99 ***(see below B).*** Similarly, such users must observe the provisions of sections 1 & 2 of chapter IV of title VI *((these are the commercial communication requirements the most significant of which we have earlier translated and linked* [*here*](https://www.g-regs.com/downloads/SPGenAVLaw2022ContentrulesEN.pdf)*)* when they market, sell or arrange the commercial communications that accompany or are placed in their audiovisual content.  Users of special relevance will take appropriate measures to comply with these obligations and will use the mechanisms that the provider of the video sharing service through the platform makes available to them, in particular, those established in articles 89.1.d) and 91.2.b). ***(See below C)***  2. For the purposes of this law, users who use video sharing services through the platform and simultaneously meet the following requirements will be considered users of special relevance:  a) The service provided involves an economic activity through which its owner obtains significant income derived from their role in video sharing services via the platform;  b) The user of special relevance is the person editorially responsible for the audiovisual content made available to the public on their service.  c) The service provided is intended for a significant proportion of the general public and can have a clear impact on it.  d) The function of the service is to inform, entertain or educate and the main objective of the service is the distribution of audiovisual content.  e) The service is offered via electronic communications networks and is established in Spain in accordance with section 2 of article 3*.* ***(see below D)***  3. In no case will the following subjects be understood to be subject to the obligations of section 1:  a) Educational or scientific centres when their activity falls within their tasks or is of an informative nature.  b) Museums, theatres or any other cultural entity in the course of presenting their programming or activities.  c) Public administrations or political parties for information purposes and presentation of the functions they perform.  d) Companies and self-employed workers who promote the goods and services produced or distributed by them.  e) Associations and non-governmental organizations for the purposes of self-promotion and presentation of the activities they carry out in line with their purpose.  4. Users of special relevance in video sharing services through the platform must register in the State Registry of Audiovisual Communication Service Providers provided for in article 39. ***(see below E)***  5. For the purposes of compliance with the obligations provided for in section 1, the adoption of self-regulation and co-regulation codes of conduct provided for in article 15 will be encouraged by users of special relevance of video sharing services via the platform., the associations that bring them together or their representatives. |
| This section provides translations of the articles referenced above. All are from [the General Audiovisual Communication Law 13/2022, of July 7](https://www.boe.es/eli/es/l/2022/07/07/13) | |
| 1. **Article 86. General principles of the provision of the video sharing service via the platform. The providers of the video sharing service via the platform will guarantee compliance with the principles established in articles 4, 6, 10, 12, 14, 15 and in section 1 of article 7, with respect to the content distributed through of its services by fulfilling the obligations established in this title.** | |
| **Article 4. Human dignity.**  1. Audiovisual communication will be respectful of human dignity and constitutional values.  2. Audiovisual communication will not incite violence, hatred or discrimination against a group or members of a group based on age, sex, disability, sexual orientation, gender identity, gender expression, race, colour, ethnic origin or social characteristics, sexual or genetic characteristics, language, religion or beliefs, political or other opinions, nationality, heritage or birth.  3. Audiovisual communication will respect the honour, privacy and self-image of people and will guarantee the rights of rectification and reply, in the terms provided in Organic Law 1/1982, of May 5, on civil protection of the right to honour, personal and family privacy and one's own image, Organic Law 2/1984, of March 26, regulating the right of rectification and Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights.  4. The audiovisual communication will not contain public incitement to the committing of any crime and, especially, will not publicly provoke the committing of a crime of terrorism, child pornography or incitement to hatred, hostility, discrimination or violence against a group, a part of a group or against a specific person for racist, xenophobic reasons, for their sex or for reasons of gender or disability in the terms and without prejudice to the provisions of the Penal Code.  **Article 6. Gender equality and image of women.**  1. Audiovisual communication will transmit an egalitarian and non-discriminatory image of women and men and will not favour, directly or indirectly, situations of discrimination based on sex, inequality of women or that incite sexual or gender violence.  2. Self-regulation will be promoted that contributes to compliance with legislation on equality between women and men and that guarantees equal access and representation of women in the audiovisual sector, as well as in positions of managerial and professional responsibility.  3. Self-regulation will be promoted to guarantee non-sexist audiovisual commercial communications, both in language, content and images, and free of gender stereotypes.  4. The competent audiovisual authority will prepare an annual report on the representation of women in audiovisual programmes and content broadcast by state-level audiovisual communication service providers, with special attention to their representation in news programmes, current information content programmes and in audiovisual commercial communications.  **Article 7. People with disabilities.**  1. Audiovisual communication will promote an adjusted\*, respectful, appreciative, inclusive and stereotype-free image of people with disabilities. (\*una imagen ajustada)  **Article 10. Media literacy.**  1. The competent audiovisual authority, the audiovisual communication service providers, the non-profit community audiovisual communication service providers and the video sharing service providers through the platform, in cooperation with all interested parties, including professional organizations, associations, colleges and unions in the field of communication and journalism will adopt measures for the acquisition and development of media literacy skills in all sectors of society, for citizens of all ages and for all. the media, and will periodically evaluate the progress made.  2. The measures provided for in the previous section will have the objective of developing competencies, knowledge, skills and attitudes of understanding and critical evaluation that allow citizens of all ages to use the media effectively and safely, access and critically analyse information, discern between facts and opinions, recognize fake news and disinformation processes and create audiovisual content in a responsible and safe way.  3. The measures provided for in section 1 will follow the principles set out in article 83 and the objectives of article 97 of Organic Law 3/2018, of December 5, as well as the provisions contained in the Charter of Digital Rights, and cannot be limited. to promote learning of tools and technologies.  4. The competent audiovisual authority, the audiovisual communication service providers and the video sharing service providers through the platform, in cooperation with all interested parties, especially with the authorities with powers in matters of education, and where appropriate, with the associations of parents, educators and those linked to carrying out media literacy activities, will adopt measures to promote that parents, guardians or legal representatives ensure that minors make beneficial, safe, balanced and responsible use of digital devices, audiovisual communication services and video sharing services via platforms, in order to guarantee the appropriate development of their personality and preserve their dignity and basic rights, in accordance with Article 84 of Organic Law 3/2018, of December 5.  5. The competent audiovisual authority at state level will prepare a report every three years on the promoted measures and their effectiveness.  **Article 12. Self-regulation.**  The competent audiovisual authority will promote self-regulation so that audiovisual communication service providers, video sharing service providers via platforms or the organizations that represent them, in cooperation, if necessary, with other interested parties such as the industry, trade or professional or user or consumer associations or organisations, voluntarily adopt guidelines among and for themselves and are responsible for the development of these guidelines, as well as the monitoring and enforcement of their compliance.  **Article 14. Co-regulation.**  1. The competent audiovisual authority will promote co-regulation through agreements signed between the competent audiovisual authority, the self-regulatory bodies and, whenever it directly affects them, the audiovisual communication service providers, the video sharing service providers via the platform. or the organisations that represent them.  2. In the agreements provided for in the previous section, the regulatory function will be distributed among the interested parties, establishing the roles of the self-regulatory bodies and the effects of their decisions.  3. The function of the competent audiovisual authority in the agreements provided for in paragraph 1 may include, among others, the recognition of the co-regulation system, the control of its processes and the financing of the system, in addition to preserving the possibility of intervening in it if its objectives are not achieved.  **Article 15. Self-regulation and co-regulation codes of conduct.**  1. The competent audiovisual authority will promote the use of self-regulation and co-regulation provided for in the two previous articles through the voluntary adoption of codes of conduct developed by audiovisual communication service providers, video sharing service providers via the platform or the organisations that represent them, in cooperation, if necessary, with other interested parties such as industry, commerce or professional or user associations or organisations.  2. The codes of conduct provided for in the previous section must meet the following characteristics:  a) Be accepted by the main stakeholders.  b) Clearly and unequivocally state their objectives.  c) Provide for periodic, transparent and independent monitoring and evaluation of the achievement of the set objectives.  d) Provide the means for effective implementation, including effective and proportionate sanctions.  e) Provide user complaint mechanisms.  f) Provide for extrajudicial conflict resolution systems before entities accredited as alternative dispute resolution entities, in accordance with the provisions of Law 7/2017, of November 2, which incorporates Directive 2013/ into the Spanish legal system. 11/EU, of the European Parliament and of the Council, of May 21, 2013, relating to the alternative resolution of consumer disputes.  g) Establish prior consultation mechanisms to ensure regulatory compliance and avoid incurring possible transgressions and reputational risks.  h) Establish independent control bodies to ensure effective compliance with the commitments undertaken.  i) Respect the regulations on the defence of competition.  3. The approval, subscription or adherence to a code of conduct by an audiovisual communication service provider or a video sharing service provider via a platform will be communicated to both the competent audiovisual authority and the representative body and consultation of the corresponding consumers depending on the territorial area in question. For state-level providers, said body is the Council of Consumers and Users. The competent audiovisual authority will verify its compliance with current regulations and, if there are no contradictions, will order its publication.  4. In any case, codes of conduct will be promoted, both at the state and regional levels, in the following areas:  a) Protection of users.  b) Protection of public health in the audiovisual field.  c) Protection of minors in audiovisual communication services and video sharing services via platforms.  d) Effective reduction of the exposure of minors to audiovisual commercial communications related to foods and beverages with a high content of salt, sugar, fat, saturated fat or trans fatty acids, or that do not otherwise comply with national or international nutritional guidelines.  e) Effective reduction of the exposure of minors to audiovisual commercial communications related to alcoholic beverages.  f) Protection of minors from exposure to audiovisual commercial communications related to the promotion of games of chance.  g) Protection of users regarding content that violates the dignity of women, or promotes sexist, discriminatory or stereotypical values.  h) Promotion of an accurate, respectful, appreciative, inclusive and stereotype-free image of people from racial or ethnic minorities in audiovisual content and that takes into consideration a presence proportional to the weight and participation of said people in the entire society. society.  i) Protection of users regarding content that promotes an inappropriate or stereotypical image of people with disabilities.  j) Protection of users regarding misinformation.  k) Protection of users regarding content with gratuitous violence and pornography.  l) Protection and promotion of linguistic and cultural diversity.  m) Promotion of media, informational and audiovisual literacy that promotes the right of access to public audiovisual communication services.  n) Protection of intellectual property rights in the audiovisual field.  ñ) Collaboration of the holders of copyright and related rights, the audiovisual communication service providers, the video sharing service providers via the platform, the electronic payment or advertising services, and other interested parties, for the elimination of content and activities that violate intellectual property rights.  o) Promotion of audiovisual content that promotes respect for nature, actions that aim to preserve the environment and warn of the consequences caused by climate change.  p) Promotion of audiovisual content that promotes animal welfare.  5. The General Administration of the State will promote, when appropriate, in accordance with the principle of subsidiarity and proportionality and without prejudice to national codes of conduct, the development of codes of conduct at European or international level. | |
| 1. **Article 99. Content harmful to the physical, mental or moral development of minors.** | |
| 1. All providers of a linear, open and access-conditioned television audiovisual communication service, and of an on-demand television audiovisual communication service, will provide users with sufficient and unequivocal information about the potentially harmful nature of audiovisual programmes and content to the physical, mental or moral development of minors through the use of a content description system, acoustic warning, visual symbol or any other technical means that describes the nature of the content, in accordance with the co-regulation agreement provided for in article 98.2.  4. The on-demand television audiovisual communication service has the following obligations to protect minors from harmful content:  a) Include programmes and audiovisual content that may include scenes of pornography or gratuitous violence in separate catalogues.  b) Be part of the co-regulation code provided for in article 98.2.  c) Provide parental control mechanisms or digital coding systems. | |
| 1. **Article 89. Measures for the protection of users and minors against certain audiovisual content.** | |
| 1.The providers of the video sharing service via the platform, to protect minors and the general public from the audiovisual content indicated in the previous article, will take the following measures:  d) Establish and apply easy-to-use systems that allow service users to rate content that may violate the obligations established in article 88.: Article 88. Obligations for the protection of users and minors against certain audiovisual content.  Video sharing service providers via the platform will adopt measures to protect:  a) To minors from programmes, user-generated videos and commercial audiovisual communications that may harm their physical, mental or moral development.  b) To the general public of programmes, user-generated videos and commercial audiovisual communications that fail to comply with the provisions of article 4.2.  c) To the general public of programmes, user-generated videos and commercial audiovisual communications that fail to comply with the provisions of article 4.4.  **Article 91. Obligations regarding audiovisual commercial communications.**  2. The providers of the video sharing service via the platform will guarantee that the audiovisual commercial communications that they do not market, sell or organize comply with the provisions of section 1 of chapter IV of title VI through the following measures:  b) Provide functionality for users who upload videos to declare whether in their understanding, or to the extent that their understanding can reasonably be expected to reach, said videos contain audiovisual commercial communications. | |
| 1. **Article 3. Scope of application.** | |
| 1. The audiovisual communication service is subject to the provisions of this law as long as the provider of said service is established in Spain.  2. For the purposes of the previous section, an audiovisual communication service provider is considered to be established in Spain in the following cases:  a) When the provider has its headquarters in Spain and the editorial decisions about the audiovisual communication service are made in Spain.  b) When the provider has its headquarters in Spain, although the editorial decisions on the audiovisual communication service are taken in another Member State of the European Union, provided that a significant part of the staff that carries out the programming activity of the communication service audiovisual works in Spain.  c) When the provider has its headquarters in another Member State of the European Union, editorial decisions on the audiovisual communication service are made in Spain, and a significant part of the staff that carries out the programming activity of the audiovisual communication service works in Spain.  d) When the provider has its headquarters in Spain and a significant part of the staff that carries out the programming activity of the audiovisual communication service works in Spain and in another Member State.  e) When the provider first began its activity in Spain, as long as it maintains a stable and effective link with the economy of Spain, although a significant part of the staff that carries out the programming activity of the audiovisual communication service does not work in either Spain or in any Member State.  f) When the provider has its headquarters in Spain, but the decisions about the audiovisual communication service are made in a State that is not part of the European Union, or vice versa, provided that a significant part of the staff that carries out the activities of the provider audiovisual communication service works in Spain.  g) When the provider to whom the provisions of the previous letters do not apply is in any of the following cases:  1. Use an uplink with a satellite located in Spain.  2. It uses a satellite capacity belonging to Spain, although it does not use an uplink with a satellite located in Spain. | |
| 1. **Article 39. State registry of audiovisual communication service providers, video sharing service providers via platforms and audiovisual communication service aggregation service providers.** | |
| 1. The State Registry of audiovisual communication service providers, video sharing service providers via platforms and audiovisual communication service aggregation service providers is created, dependent on the Ministry of Economic Affairs and Digital Transformation.  2. The following providers will be registered in the Registry provided for in this article:  a) State-level television audiovisual communication service providers.  b) State-level public audiovisual communication service providers.  c) State-level audiovisual communication service aggregation service providers.  d) Video sharing service providers via the platform.  e) State-level radio audiovisual communication service providers.  f) Sound audiovisual communication service providers at the request of the state.  g) Users of special relevance to video sharing services via the platform in accordance with the provisions of article 94.2.  3. The management of the Registry provided for in this article will be exclusively electronic.  4. The organisation and operation of the Registry provided for in this article will be established by regulation. | |

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