

A group of people are seen from behind, sitting in a dimly lit room and watching a soccer game on a large screen. They are holding glasses of beer and cheering with their arms raised. The scene is illuminated by warm, orange light, likely from the screen and ambient room lighting.

SPAIN'S NEW AUDIO VISUAL LAW AND ITS IMPACT ON ACCESSIBILITY

All you need to know to adapt your TV service
to the new requirements

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1. SPAIN'S NEW AUDIO VISUAL LAW AND ACCESSIBILITY

The European Accessibility Act of 2019 set accessibility goals regarding continuous improvement but left it to EU Member States to decide how they want to reach them. Member states had 3 years (till 2022) to introduce new or update existing legislation to comply.

In summer 2022, Spain passed new legislation intended to bring the previous audio visual law up to speed with the reality of a transformed mediascape. This new law (Ley General de Comunicación Audiovisual (Ley 13/2022, de 7 de julio -LGCA) attempts to address the changes that have happened in the world of television and to regulate online media formats. The law covers a range of aspects, from the protection of minors and limits on advertising, to cultural diversity measures. It also fulfils the EU Directive in terms of access services obligations.

2. NEW PLATFORMS

In terms of accessibility, the old Spanish law primarily affected the traditional broadcasters, linear channels available on digital terrestrial television. The new law brings into effect obligations for streaming platforms, VOD services and even influencers when they are established in Spain. So, pay TV platforms like Movistar + and VOD services like Flixolé or Filmin, who previously were not regulated, are included. However, given the European Directive regarding country of origin, those platforms established outside of Spain but within Europe (such as Netflix, HBO or Amazon Prime) would be subject to the laws in their "host" country, even if they have services in Spain. Where other countries have not yet implemented or updated legislation, they will not have any obligations regarding accessibility.



3. THE NEW OBLIGATIONS

The new law extends obligations to provide captions, audio description and sign language translation to pay TV, on demand TV and on demand audio. It also states that those services should prioritise specific types of services of interest to end users, and programming with high audience ratings.

		CAPTIONING	AUDIO DESCRIPTION	SIGN LANGUAGE
LINEAR TV	Public	90%	15 hours/week	15 hours/week
		Prime time/Maximum audience	Prioritise content of specific types and with maximum audience	
	Private	80%	5 hours/week	5 hours/week
		Prime time/Maximum audience	Prioritise content of specific types and with maximum audience	
	Exclusive services to other member states	Gradual incorporation	Gradual increases	Gradual increases
LINEAR PAY TV	Services with state-wide coverage	30%	5 hours / week	Gradual incorporation
		Content of maximum audience interest	Content maximum audience	Programming of interest to sign language users
	Exclusive services to other member states	Gradual increases	Gradual increases	Gradual increases
ON DEMAND		30%	Gradual increases	Gradual increases
	Services with state-wide coverage	Content of maximum audience interest	Prominent content	Prominent content
	Exclusive services to other member states	Gradual increases	Gradual increases	Gradual increases
ON DEMAND AUDIO		Gradual increases		
3RD PARTY SERVICES (AGGREGATORS)		To carry access services provided		

The law also stipulates that those affected must implement plans for continuous improvement in accessibility of their services and communicate those plans to the regulator on an annual basis. The first report into these plans was published by the CNMC on 24th November last year.

4. THE EXEMPTIONS

The new law also mentions exemptions for channels that don't reach certain audience or revenue numbers, by stating that it exempts those who can prove low revenues and low audience, to be determined by the regulatory framework.

Until that regulatory framework is completed, those with revenues of under €2 million a year will be considered low revenue. Low audience will depend on the type of service provided. For linear TV this will mean less than 2%, for on demand, less than 1%. At the end of March 2023, the CNMC published a document with more details on the exemptions.

This document confirmed that to be exempt, operators need to comply with both low audience and low revenue criteria, and that annual revenues would include all yearly income that comes from linear and on demand services, but not from aggregation services. Regarding audiences, for linear channels, standard audience measurement data from Kantar Media will be used. For SVOD, the key indicator will be subscriber numbers, and for AVOD and TVOD, the key indicator to calculate audience figures will be revenues as a percentage of the total VOD market.

5. CLARIFICATIONS

There are still a lot of details regarding exactly how the law will work which are not yet clear and at the end of November 2022 an information session was held in Madrid with the regulator to try to clarify some of the myriad of questions that providers of video services had. For example, are FAST channels considered linear? How will prime-time / maximum audience slots be decided when they differ drastically by channel and content type? How do content owners know which content is of specific interest? Many of the answers to these questions will need to be established over the coming months and years, as the government works to establish and publish a regulatory framework by Royal Decree. This could take years.

In the meantime, it falls to the Spanish regulator CNMC, to establish a list of those services affected, and measure and report on what they're achieving. Not an easy task, especially regarding quality measurement, when the official standards for accessibility services (Normas UNE) are decades old and only applicable to linear digital terrestrial TV. The CNMC stated, that in terms of quality measurement, which to their knowledge has not been regulated by other EU Members yet, they would proceed with caution.

6. SANCTIONS

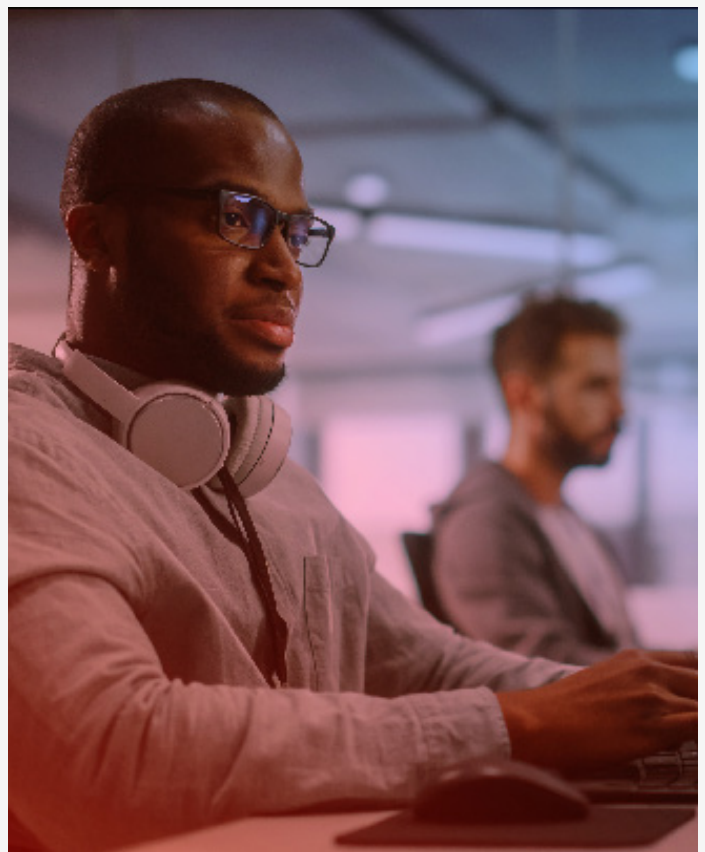
Article 158 of the law also includes sanctions for failure to comply with accessibility obligations. These are categorised as serious infractions and are subject to sanction on a sliding scale depending on revenue.

REVENUES	SANCTION
<€2M	Up to €30,000
€2M <€10M	Up to €150,000
>€10M <€50M	Up to €300,000
>€50M	1,5% revenues up to €750,000
RADIO	Up to €100,000

7. CENTRES OF REFERENCE AND QUALITY

The law stipulates that in terms of quality and interoperability, those affected need to put their heads together with end users of the service and agree codes by which they will be “autoregulated”. It also establishes two centres of reference for quality – the Spanish Centre for Subtitling and Audio Description (CESyA), and the Centre for Normalisation of Spanish Sign Language (CNLSE) both of which over the years have worked hard to establish best practice guidelines or proposed new metrics for subtitle or audio description quality. However, these metrics will need adapting for the new world, and testing in the real world to ensure that they are fit for purpose and won't have unintended consequences.

For example, the unwanted consequence of something so simple as imposing maximum reading speeds, could lead to a step back in perceived quality by users, as subtitlers revert to adapting and providing less literal captions. All this means establishing new working groups including video service providers and end users of their services to agree codes to “autoregulate” their access services. No small task.



8. TECHNICAL CHALLENGES AND INNOVATIVE SOLUTIONS

One challenge causing lots of head scratching is how linear and non-linear broadcasters can offer optional sign language services on maximum audience content. For the digital terrestrials, hope seems to be at hand with HbbTV technology permitting optional sign language overlay via red button tech, and even the possibility of personalising the experience – resizing, moving and changing the background colour of the interpreter. For other platforms, other solutions will need to be found.

What was clear from the regulator session was that a lot still needs to be clarified. However, what was also apparent was that the challenges will be a lot easier to overcome if we work together and look for standard solutions. In Red Bee, we firmly believe that the future is built by working together, sharing challenges and finding the best solutions. This is why over the last few months, we have been organising industry seminars to bring together key stakeholders to discuss the technical and operational challenges of the new law, coming up with a list of all the questions and concerns which we presented to the CESyA and the CNMC in order for them to prepare their information session.

Over the coming months, the Ministry for Economic Affairs and Digital Transformation will be working hard to complete the regulatory framework to accompany the new law, while the regulator works out the details of how exactly they will police compliance. At Red Bee, we will continue to work with government working groups to define quality indicators and the new standards, while helping our customers navigate any technical or operational challenges with innovative and flexible solutions.





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