

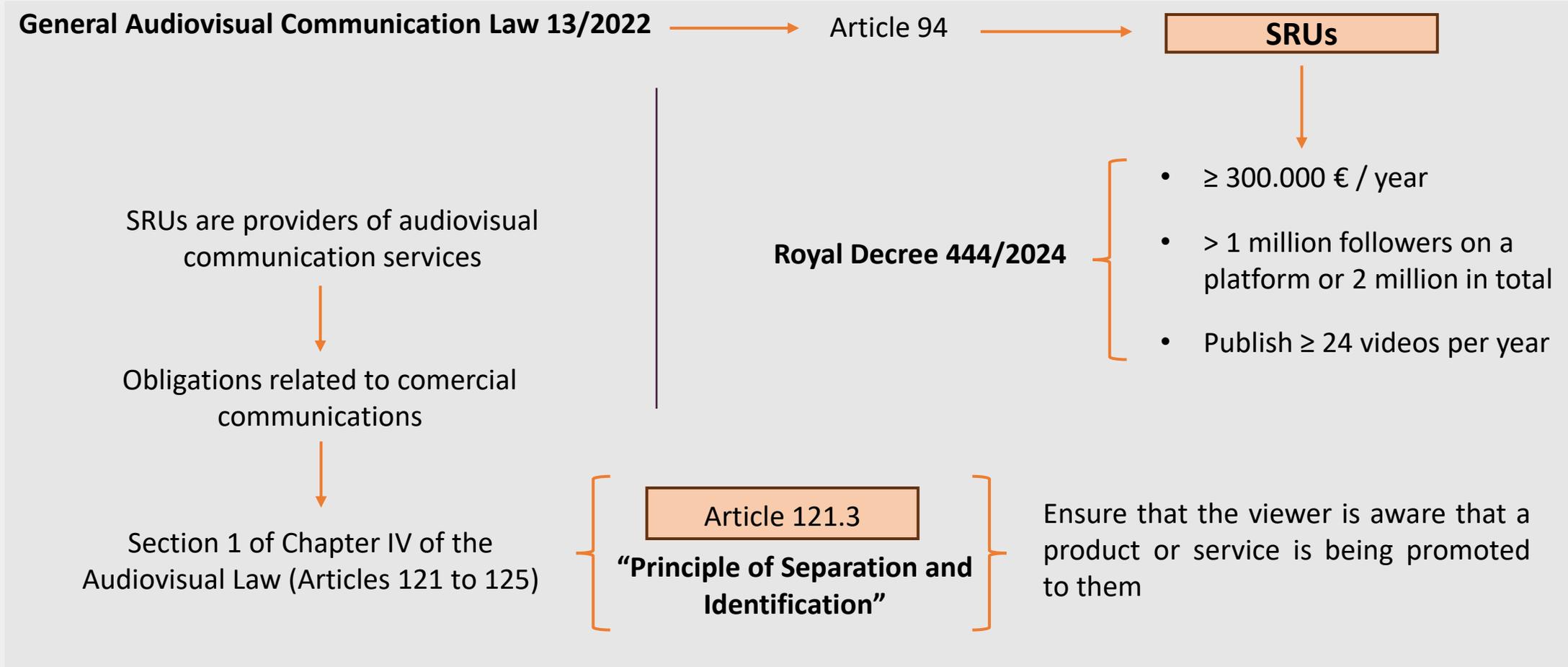


THE SPANISH REGULATION OF AUDIOVISUAL COMMERCIAL COMMUNICATIONS: *INFLUENCERS*

Siana Kalinova – Head of Department at the Audiovisual Subdirectorate of the National Commission on Markets and Competition (Spain)

1. What is a special relevance user? (SRUs)?

***SRU (hereinafter, influencers)**



2. Which influencers are affected by the Audiovisual Communication Law?

General Audiovisual Communication Law 13/2022

Influencers established in Spain

- Begins its activity in Spain
- Maintains a **stable and effective link** with the Spanish economy (Article 3.2.e), even if it makes decisions from another country

Case file example: influencers **@Vegetta777**

- The main language of the activity is spanish, that is, it targets its content to a Spanish national audience
- Spanish products and brands are promoted
- The audience and impact of its activity in Spain are significant

Obligated to comply with Law 13/2022 and **subject to supervision by the CNMC**

2.1 CLASSIFICATION AS AN AUDIOVISUAL SERVICE PROVIDER



2.2 Visual examples

1* The service provided involves an economic activity.



2.3 Visual examples

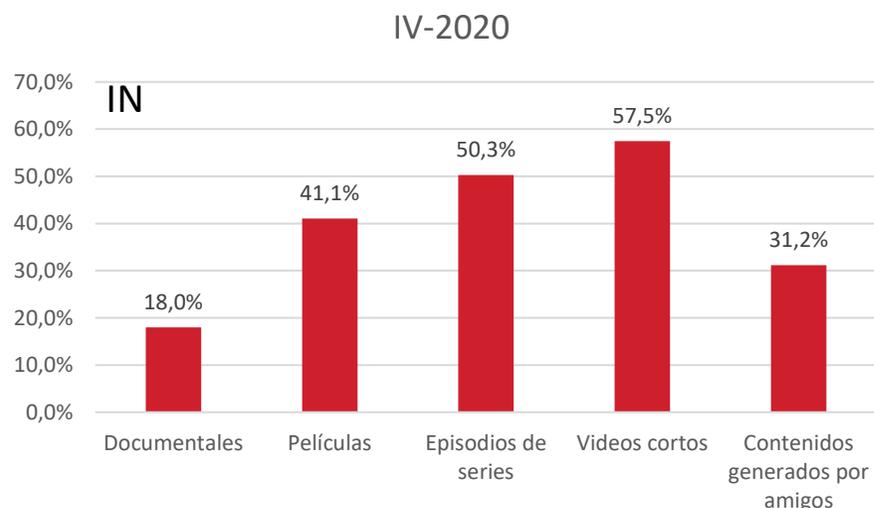
2* y 3* the content creator has editorial responsibility and the service is aimed at the general public.

The screenshot displays a YouTube channel page for Alexandra Pereira, organized into three main sections: "Viajes - Travels", "Moda - Fashion", and "LifeStyle". Each section features a grid of video thumbnails with titles, view counts, and upload dates. The "Viajes - Travels" section includes videos like "DE VUELTA AL PARAÍSO" (117,931 views) and "NUESTRA LUNA DE MIEL" (224,568 views). The "Moda - Fashion" section includes "TRY ON HAUL DE PRIMAVERA" (117,719 views) and "10 DÍAS 10 LOOKS" (116,707 views). The "LifeStyle" section includes "NOS MUDAMOS A PARÍS!" (22,099 views) and "FAVORITOS DEL MES: JUNIO '19" (26,141 views).

Category	Video Title	Views	Upload Date
Viajes - Travels	DE VUELTA AL PARAÍSO ALEXANDRA PEREIRA	117.931 visualizaciones	hace 1 semana
	NUESTRA LUNA DE MIEL ALEXANDRA PEREIRA	224.568 visualizaciones	hace 1 año
	MY TRIP TO TUSCANY ALEXANDRA PEREIRA	94.517 visualizaciones	hace 2 años
	AVENTURA EN PARÍS CON MOËT ALEXANDRA...	133.046 visualizaciones	hace 2 años
	MY TRIP TO ICELAND ALEXANDRA PEREIRA	71.471 visualizaciones	hace 2 años
	SÚPER VLOG: SINGAPUR & BALI 2019 ALEXANDRA...	110.449 visualizaciones	hace 2 años
Moda - Fashion	TRY ON HAUL DE PRIMAVERA ALEXANDRA...	117.719 visualizaciones	hace 2 meses
	10 DÍAS 10 LOOKS ALEXANDRA PEREIRA	116.707 visualizaciones	hace 2 años
	SUPER UNBOXING 3 ALEXANDRA PEREIRA	104.008 visualizaciones	hace 2 años
	6 DÍAS 6 LOOKS ALEXANDRA PEREIRA	96.113 visualizaciones	hace 2 años
	8 FORMAS DE PONERSE UN VESTIDO BLANCO ...	62.707 visualizaciones	hace 3 años
	MI COLECCIÓN DE ZAPATOS ALEXANDRA...	200.753 visualizaciones	hace 3 años
LifeStyle	NOS MUDAMOS A PARÍS! OS ENSEÑO NUESTRO PIS...	22.099 visualizaciones	hace 2 años
	OS HABLO DE MI BODA ALEXANDRA PEREIRA	50.123 visualizaciones	hace 2 años
	FAVORITOS DEL MES: JUNIO '19 ALEXANDRA...	26.141 visualizaciones	hace 2 años
	FAVORITOS DEL MES: ENERO '19 ALEXANDRA...	17.403 visualizaciones	hace 2 años
	MY MORNING ROUTINE ALEXANDRA PEREIRA	4.163 visualizaciones	hace 2 años
	SUPER UNBOXING 3 ALEXANDRA PEREIRA	22.213 visualizaciones	hace 2 años

3. CONTEXT AND EVOLUTION OF THE MARKET

3.1 Increased consumption of this audiovisual content



In 2025 we identified more than 1.600 USR.

In 2020, 53% of those surveyed consumed audiovisual content online at least once a week. Of these, 57.5% were short videos. Over the past five years, this type of content has consistently accounted for over 50% of consumption.



Target audience of 18-24 years: YouTube is the first choice with a consumption of 76 minutes per day, which represents 32% of the total, above traditional channels¹.

¹ Barlovento Communication: Report on Audiovisual Consumption for January 2021

3. CONTEXT AND EVOLUTION OF THE MARKET

3.2 Increased investment by brands and professionalization of the sector

- **IAB:** average investment of **125,9 million €** which represents a growth of 59% compared to previous year. Sponsored content increased by 36% and branded content by (72%). **The number of professional influencers increased by 16% in 2025.**

3.3 Relevance of the Spanish “Influencers”



4. VLOGGER ACTIVITY – Focus on impact on minors

Minors prefer content from platforms

- Greater control over what they see and when they see it, and they perceive it as a more personalized service.

Children watch videos on the internet every day

- Children aged 9-17 watch videos daily (or several times a day or almost all the time).

Inappropriate content for minors and influence

5. RISKS FOR MINORS

5.1 CNMC Analysis. Two big viewing exercises on Influencers:

- **Exercise within the framework of the draft bill LGCA:**

+ 640 videos
(400 h. 🔍)

- Inappropriate content for minors
- Commercial communications without tags

- Analysis of the 4 most important gamers in Spain on  and 

+50 videos
(1.000 h. 🔍)

- No age rating available
- Again, inappropriate content for minors (violence, language etc...)
- Advertising without identification

Conclusion: core objectives of Spanish public policy (protection of minors and consumers) are being threatened in this context

6. CNMC ACTION PLAN

Tasks carried out in specific cases → Step by step

1. Identifying agents in the sector using influencer marketing tools (through public procurement processes)
2. Communications made to inform of the entry into force of their obligations.
3. Supervisory exercise, where videos from various “*influencers*” were analyzed.
4. As a result of these tasks, the CNMC finds that the **obligation of article 121.3 of the LGCA must be carried out in the following way:**
 - ✓ Use of **tag #publi #publicidad**
 - ✓ The tag must be **inside the video**
 - ✓ Must be **visible and clear**: size and color
 - ✓ **Not mixed** with other slogans or messages
 - ✓ It should **remain on screen** throughout the entire promotion

7. Is any infringement being committed?: Real Examples

CASE FILES ANALYZED BY THE CNMC

Influencers	Date of the agreement	Reason for the case file	Main claims	Advertiser's actions	CNMC decision	Legal basis
@Verdeliss (Estefanía Unzu)	07/17/2025	Complaint by COEM for hidden advertising and promotion of health products ("impress").	Claims it was the promotion of a healthcare service, not a product; included "#ADVERTISING"; no infringement.	Smile2Imprcss confirms legitimate relationship, accuses COEM of a guild campaign.	File closed. The advertising was identified, and the law was not violated.	Art. 94, 121, 122 and 123 LGCA.
@Gabrieloxguevaraa	04/24/2025	Possible hidden advertising due to tagging a hotel ("Asia Gardens").	Proves that they paid for their stay; no commercial relationship.	The hotel did not respond.	File closed. Commercial communication was not substantiated.	Art. 94 y 121 LGCA.
@Vegetta777 (Samuel de Luque)	07/23/2025	Supervision for possible unidentified commercial communication ("Ushuaia Ibiza").	Claims they did not receive payment or benefits, and the content was recreational. Acted without profit motive.	Palladium Gestión confirms there was no commercial relationship.	File closed. The CNMC determines lack of advertising (<u>BUT recognition of jurisdiction, even when the influencers resides in Andorra</u>)	Art. 94 LGCA and European framework (DSCA, TFUE).

8. FOCUS ON ADVERTISING BY SECTOR

Alcohol advertising

- Importance of the legal context in every country. **CNMC is responsible of UERs with direct application of the LGCA, but self-regulation is core in terms of advertising.**
- AUTOCONTROL is an independent advertising self-regulatory organisation (SRO) in Spain, → Function: Supervision of influencers under CNMCs threshold.
- **Approval of the Influencer Code of Conduct** (between Autocontrol, IAB Spain, and AEA (Spanish advertising association) entered into force at 1st October 2025.
- CNMC and Autocontrol have a fluent relation and work together in traditional markets through copy advices.
- Autocontrol → “Influencer Certification” INFLUENCERT* + 500 influencers already certified.
<https://www.autocontrolformacion.es/influencers/>

8.1. REAL CASES - EXAMPLES

MALUMA TEQUILLA BRAND

SANCTION → TV Channel “EL HORMIGUERO” because of “surreptitious audiovisual comercial communication of alcohol” art. 122.3 and 123.4 LGCA (not an spanish influencer case, but a good example of how famous singers, futbol players, actors etc... can become also influencers with own brands)

CNMC sanction → <https://www.cnmc.es/prensa/multa-atresmedia-publi-encubierta-20241010>



8.2 REAL ADVERTISING CAMPAIGNS ON SOCIAL MEDIA

Increasing alcohol advertising campaigns

- Jose Cuervo Tequilla, Ron Brugal “experiences”, Bulldog Gyn... etc
- During CNMC first viewing exercise → Clear transfer of alcohol brands to digital services, in order to capture minor audience.
- Also, cross-advertising is very present → For example alcoholic sponsorship during gambling events such as “KINGS LEAGUE”



8 FOCUS ON ADVERTISING BY SECTOR

8.3 GAMBLING AND FINANCIAL PRODUCTS

- CNMC does not analysis gambling cases which are referred to a specialized Agency → the General Directorate of Gambling, under the competence of the Ministry of Consumer Affairs.
- FINANCIAL PRODUCTS ADS → **COLLABORATION WITH CNMV** as the National Securities Market Commission. A good example of best practice because before the approval of the MICA Regulation (Markets in Crypto-Assets) CNMV was responsible to pre-authorize crypto asset ads.
- This **pre-authorization system has led to greater protection for minors,** and consumers in general, in terms of financial advertisements.

9. General matters raised by the CNMC

The CNMC's Regulatory Supervision Chamber indicates that:

- **Influencers must expressly identify commercial communications** in a manner visible within the video itself.
- **Remuneration should not be confused with a monetary payment;** remuneration can take numerous forms, such as gifts or invitations.
- **Indicators of commercial disclosure** include mentioning product characteristics, mentioning or pricing, discount codes, displaying logos, etc.
- **Influencers must avoid tagging brands or services with which there is no commercial relationship,** as this practice can lead to confusion and result in hidden advertising.
- Influencers are obliged to register in the State Registry of Audiovisual Service Providers.

Influencers are subject to the supervision of the CNMC regarding audiovisual matters and **must maximize transparency in their advertising activities**, complying with their obligations and those of other agents in the audiovisual environment

GENERAL CONCLUSIONS

- A sector that is **constantly evolving** → fast regulatory responses are needed
- **Big influencer marketing industry in Spain**, and constantly increasing
- **Complexity because of different legislation:** cosmetics, gambling, alcohol, financial products.
- Some measures, are very new (such as codes of conduct) and others still pending (Royal Decree on commercial communications is still not approved)

POSSIBLE FUTURE CHALLENGE → HARMONIZATION OF THE DEFINITION OF INFLUENCER ON AN EU LEVEL



THANKS FOR YOUR ATTENTION