[FR] CSA Delivers its Opinion on the Draft Electronic Communications Bill

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On 28 May the CSA delivered its opinion on the draft electronic communications bill (see IRIS 2003-5: 15 and IRIS 2003-6: 9), the purpose of which is to transpose the "telecoms package" into French law. The opinion is in eight sections which, on the whole, follow the order of the text, and cover the amendments made to the Post and Telecommunications Code, the scope of the CSA, authorisations for terrestrially broadcast television, the status of TDF (Télédiffusion de France), radio and television services other than those broadcast terrestrially, service distributors, measures to combat concentration, and the exercise of regulation.

Firstly, the CSA calls on the Government not to extend the acknowledged scope of the Autorité de régulation des télécommunications (telecoms authorisation authority ART) as regards the operators of networks or electronic communications services to include commercial editors and distributors of radio or television services, over which the CSA has authority.

With regard to its area of authority, the CSA stresses the need for a definition of radio and television services and for the regulation of those services with partially interactive content. The draft bill usefully supplements the provisions of the bill on confidence in the digital economy, voted in April on its first reading in the National Assembly, which defines public on-line communication services as a sub-group of audio-visual communication services. Thus there is now a clear statement on the scope of the regulation exercised by the CSA over the sub-group of audio-visual communication services constituted by radio and television services, whatever their means of transmission and distribution. Nevertheless, with an eye to clarity and legal security, the CSA repeats the desire it has expressed on many occasions for the legislator to give a definition of radio and television services, and proposes one in its opinion.

The CSA also approves all the proposed provisions designed to reduce the time taken to investigate applications from candidates and improve the investigation procedures prior to the issue of authorisations. It stresses the need to draw a clearer distinction between the legal frameworks for local cable channels and for local public terrestrially broadcast television channels.

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As for the thresholds to combat concentration, the CSA is asking that whenever possible, thresholds expressed in absolute terms should be replaced by thresholds expressed as relative values, as these are easier to adapt subsequently. Moreover, the CSA feels it would be appropriate to embark on consideration of arrangements which, instead of automatically limiting development of the activity of powerful operators, would give it the power to impose specific obligations on them in order to guarantee diversity while promoting the industrial development of the sector. The CSA also proposes three measures to facilitate the application of Article 40 of the 1986 Act, which sets at 20% the maximum holding of persons who are not Community nationals. It is also in favour of the abolition of the threshold of 8 million inhabitants for cable operators.

Lastly, the CSA welcomes the fact that the draft bill extends to the entire audio-visual sector its power to settle disputes, limited by the Act of 1 August 2000 to terrestrially broadcast digital television. It would nevertheless like the scope of its power of sanction to be extended, particularly as regards access to pornographic or extremely violent broadcasts. It concludes its opinion by setting out three proposals for other changes to be made to its powers (reinforcement of its power of investigation, attribution of a regulatory power in respect of the technical conditions for using audio-visual frequencies, and definition of its scope for exercising supervision of broadcast advertising).

Having made a number of amendments based on the opinion and on that of the ART, delivered on 12 June, the Government is now on the point of transmitting the final version of the bill to the Conseil d'État. It would however appear that it is maintaining, against the CSA's opinion, its choice to not define radio and television.

Avis du CSA sur le projet de loi sur les communications électroniques

http://www.csa.fr/infos/textes/textes_detail.php?id=12700

Opinion of the CSA on the electronic communications bill

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