[FR] Audiovisual Reform Adopted and Promulgated

IRIS 2009-4:1/13

Amélie Blocman
Légipresse

The Act “on audiovisual communication and the new public television service” and the Implementing Act on the appointment of the chairmen of the public-sector audiovisual companies were gazetted on 7 March 2009. A few days earlier, the Constitutional Council, in response to an application by opposition MPs, had validated all the key measures of the reform, including the abolition of advertising on the public-sector channels, their financing, and - more controversially - the appointment of the chairmen of the public-sector audiovisual companies (France Télévisions, Radio France and the company responsible for audiovisual services outside France) by the President of the Republic and his Council of Ministers. The Constitutional Council held such appointments to be in compliance with the Constitution on condition that they are subjected to the opinion procedure and to the right of possible veto of the parliamentary committees, and are only made if the opinion of the national audiovisual regulatory authority (*Conseil Supérieur de l’Audiovisuel* - CSA) is favourable. On the other hand, the arrangement making provision for the Parliament to have a right of veto in respect of the revocation was cancelled, and the Parliament’s opinion made merely consultative.

Thus the Act brings about the total abolition of advertising on the public-sector channels by the end of 2011 (when analog TV stops); the ban has been in operation for the slot between 8 p.m. and 6 a.m. since 5 January 2009 (see IRIS 2009-2: 13). In exchange, there is a new tax on advertising on the private channels (between 1.5 and 3%) and another on electronic communication operators (0.9%). The text also provides that the audiovisual licence fee (now called a “contribution to the public-sector audiovisual scene”), which currently stands at EUR 116, should be indexed to inflation and increased to EUR 118 in 2009 and then to EUR 120 on 1 January 2010.

Apart from the question of the financing of public-service audiovisual services, one of the main elements of the text is the transformation of the France Télévisions group into a single programme company, with a list of specifications that will set out the details and the characteristics of the editorial lines of the different channels. The governance of the public-sector audiovisual companies is to be reformed by the signature of a contract of objectives and means corresponding to the duration of the chairman’s term of office which is to be sent to the CSA before it is signed.

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Another important aspect of the text is its Section III (Articles 36 to 70), devoted to the transposition into French law of the Audiovisual Media Services Directive. The CSA, whose sphere of responsibility is thus extended to include the Internet, will henceforth ensure the regulation of audiovisual media services on demand (mainly catch-up TV and video on demand). The Act makes provision for a single legal framework for linear services on demand, although with special rules, to be laid down subsequently by decree, for audiovisual services on demand, which will allow more flexibility in the obligations that will be imposed on them. The Act nevertheless requires the actual promotion of European and original French-language audiovisual and cinematographic works (Art. 55). The Act leaves it to the CSA to lay down the conditions for having recourse to investment, although it does state the demands to be met (Art. 40). It also authorises private channels to introduce a second commercial break during films, television films and magazine programmes corresponding to the criteria of audiovisual works. As part of the transposition of the AVMS Directive, the Act also lays down provisions concerning the accessibility of programmes for the blind and partially sighted, and a stronger guarantee of the right to information about events of any kind that are of a major interest to the general public.

For Christine Albanel, Minister of Culture, it is “the audiovisual scene as a whole that will be boosted, with a public-sector service free to fulfil its missions and fewer restrictions on the private channels”.

Loi n° 2009-258 du 5 mars 2009 relative à la communication audiovisuelle et au nouveau service public de la télévision, JORF n°0056 du 7 mars 2009 page 4321

http://legifrance.gouv.fr/affichTexte.do;jsessionid=55CA0F50E839B83D6604CBDC72F5EE9B.tpdjo08v_3?cidTexte=JORFTEXT000020352071&dateTexte=20090316

Act No. 2009-258 of 05 March 2009 on audiovisual communication and the new public-service television, published in the Official Gazette no. 0056 of 07 March 2009 (page 4321)

Loi organique n° 2009-257 du 5 mars 2009 relative à la nomination des présidents des sociétés France Télévisions et Radio France et de la société en charge de l'audiovisuel extérieur de la France, JORF n°0056 du 7 mars 2009 page 4321

http://legifrance.gouv.fr/affichTexte.do;jsessionid=CA17369A562331B36974A4B8151E0E9F.tpdjo08v_3?cidTexte=JORFTEXT000020352069&dateTexte=20090317

Implementing Act No. 2009-257 of 05 March 2009 on the appointment of the chairmen of the companies France Télévisions and Radio France and of the

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company in charge of France's external audiovisual services, published in the Official Gazette no. 0056 of 07 March 2009 (page 4321)

Décision n° 2009-576 DC du 3 mars 2009, JORF n°0056 du 7 mars 2009 page 4336

http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/2009/decisions-par-date/2009/2009-576-dc/decision-n-2009-576-dc-du-03-mars-2009.42439.html

Decision no. 2009-576 DC of 3 March 2009, Published in the Official Gazette no. 0056 of 7 March 2009 (page 4336)

Décision n° 2009-577 DC du 3 mars 2009, JORF n°0056 du 7 mars 2009 page 4336

http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/2009/decisions-par-date/2009/2009-577-dc/decision-n-2009-577-dc-du-03-mars-2009.42424.html

Decision no. 2009-577 DC of 3 March 2009, Published in the Official Gazette no. 0056 of 7 March 2009 (page 4336)

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