[FR] Publication of Audiovisual Media Services Decree

IRIS 2011-1:1/26

Amélie Blocman
Légipresse

It has taken the Government a few weeks to revise its text after receiving a negative opinion from the CSA on 27 September on its draft decree on audiovisual media services (AVMSD) (see IRIS 2010-10/31). The Decree, incorporating a number of the suggestions made by the Conseil Supérieur de l'Audiovisuel (audiovisual regulatory body - CSA), was published in the Journal Officiel on 14 November 2010. Adopted in application of the Act of 5 March 2009 transposing the AVMS Directive into French law, the Decree lays down three sets of rules: the arrangements for the scheme for AVMS contributing to the production of cinematographic and audiovisual works; the arrangements making it possible to guarantee the offer of cinematographic and audiovisual works of European origin or made originally in the French language and to ensure their effective exploitation; and the arrangements covering advertising, sponsorship, and tele-shopping.

Regarding the arrangements concerning the contribution to production, the Decree draws a distinction between two categories of services - video on demand (VOD) services, whether on an individual basis (Art. 5) or by subscription (Art. 4), and catch-up television services (Art. 3). For all services, the provisions covering the contribution to production only apply to those services offering at least ten full-length cinema films or ten audiovisual works. Similarly, in line with the CSA’s recommendations, the arrangements will only apply to services with a turnover of at least EUR 10 million (excluding catch-up TV), so as not to hinder their development. Article 7 of the Decree takes into account, as the CSA wished, the purchase of rights as an eligible expense for avoiding the development of exclusivity practices in this market. The contribution scheme to be applied to VOD services by subscription (Art. 4) will vary according to the media chronology (contribution rate of between 15% and 25%) for European works or works made originally in the French language. The contribution scheme for catch-up television services (Art. 3) only applies to cinematographic production, since for audiovisual production the contribution made by these services is pooled with that of the television services from which they are derived. Article 6 of the Decree lays down a scheme for a gradual increase in the production obligations of VOD services on an individual basis and by subscription. Articles 9 and 10 determine the proportions and criteria for independent production.

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As for the arrangements intended to guarantee the offer and effective exploitation of European works and works made originally in the French language, Articles 12 and 13 of the Decree provide for the application of the same quotas as those applicable to television services, which is 60% for European works and 40% for works made originally in the French language. These quotas are however set initially at 50% for European works and 35% for works made originally in the French language for a three-year period, as recommended by the CSA. Lastly, Articles 14 to 18 of the Decree extend to AVMS the rules of ethics resulting from the Decree of 27 March that apply to advertising on television, television sponsorship, and tele-shopping, namely truthfulness, respect for human dignity, non-discrimination, a ban on surreptitious publicity, and use of the French language, etc.

In line with the publication of the Decree, the CSA began on 1 December to call for applications from broadcasters of on-demand audiovisual media services on digital television.

Décret n° 2010-1379 du 12 novembre 2010 relatif aux services de médias audiovisuels à la demande, JO du 14 novembre 2010,

http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023038244&dateTexte=&categorieLien=id

Decree No. 2010-1379 of 12 November 2010 on on-demand audiovisual media services, published in the Journal Officiel of 14 November 2010

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