[FR] The CSA Proposes Clearer, Simpler Regulation of On-Demand AVMS

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On 23 December 2013, the *Conseil Supérieur de l'Audiovisuel* (audiovisual regulatory authority - CSA) delivered a report on application of Decree No. 2010-1379 of 12 November 2010 on on-demand audiovisual media services (on-demand AVMS) to the Prime Minister and to the Ministry of Culture. The CSA took the opportunity to draw up a report on the text and give details of its application, and then made a number of proposals aimed at clarifying and simplifying the regulation of on-demand AVMS and at creating a favourable environment for these services. Totally in line with the conclusions of the Lescure mission (see IRIS 2013-6/19), and in order to improve the competitiveness of these services, the CSA is calling for changes in media chronology, shortening the window for broadcasting pay-per-view video on demand (VoD) to three months (compared with the current four) and the window for broadcasting subscription video on demand (SVOD) to 24 months (compared with the current 36). Although the latter is not yet particularly developed in France, that could change with the announced arrival of Netflix. The CSA also recommends limiting the freeze on rights to four weeks (two weeks before broadcasting and two weeks afterwards). Channels are currently entitled to request that films being show again on television should be taken out of VoD catalogues for several months, which explains why only 63% of feature films are offered as VOD within six months of being first screened, much to the public's disappointment. The CSA makes another noted proposal in its report by calling for a clarification of the status of the new Internet stakeholders with which the on-demand AVMS are in competition. Video-sharing platforms are in fact excluded from the definition of an on-demand AVMS if they host user-generated content. For several years these platforms have been developing partnerships with audiovisual editors and content suppliers, with which they share the income generated by advertising. They sometimes edit certain services directly (such as Dailysport edited by Dailymotion), or in some cases serve as a distributor of on-demand AVMS. An example is YouTube, which launched a number of exclusive themed channels (YouTube's "original channels") in France in 2011. Quite often, the Internet access providers also develop their own offer of VOD and SVOD. A video-sharing site may be qualified as a host within the meaning of the LCEN for content put online by private users, and as an editor within the meaning of the Act of 30 September 1986 on audiovisual communication for an audiovisual service. As for activity as a distributor of audiovisual communication services, this is recognised by the Act but not by the

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Directive on audiovisual media services. The Directive only recognises the qualification of supplier of services, which corresponds to that of an editor under French law. The Lescure mission proposed applying the regime of distributor of audiovisual services provided for in French law to certain stakeholders (IAPs, manufacturers and distributors of connected terminals, app stores, and even video-sharing sites). The implications of these qualifications are multiple and complex. In its report, the CSA therefore calls for a clarification of the scope of the Directive SMAV when it is re-examined, so that distributors of services within the meaning of French law can be incorporated in it, and that the two European Directives can be coordinated appropriately. Also, as the Lescure Report advocated, the CSA is asking for an impact study to be carried out in order to determine the new stakeholders to which a status of distributor of services should be applied and the consequences of such qualification. Lastly, it calls for the introduction of a regime of voluntary agreements in favour of on-demand AMSs as a complement to the regime of declarations which would be required of all services. It now remains to be seen what the French Government will make of these proposals.

Rapport au Gouvernement sur l'application du décret n° 2010-1379 du 12 novembre 2010 relatif aux services de médias audiovisuels à la demande (SMAD)

http://www.csa.fr/Etudes-et-publications/Les-autres-rapports/Rapport-au-Gouvernement-sur-l-application-du-decret-n-2010-1379-du-12-novembre-2010-relatif-aux-services-de-medias-audiovisuels-a-la-demande-SMAD

Report to the Government on application of Decree No. 2010-1379 of 12 November 2010 on on-demand audiovisual media services

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