[FR] Draft revision of the AMS Directive: CSA publishes its response to the public consultation

IRIS 2016-2:1/11

Amélie Blocman
Légipresse

The audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) has published its response to the European Commission's consultation on the Audiovisual Media Services Directive (AMSD) - 'A media framework for the 21st century'. This contribution to the current consideration of the evolution of Europe's audiovisual framework highlights the need to extend the perimeter of the Directive to include digital intermediaries to which a set of suitable rules would be applied. The CSA uses a number of examples to exemplify the difficulty in qualifying certain on-demand services not included in the scope of the Directive, demonstrating that a certain set of services (operators of economic communications distributing content, video-sharing platforms making professional content available, app stores, search engines, etc) occupy a fundamental place in terms of access to audiovisual content. Competition and consumer law, however, do not make it possible to approach all the aspects of pluralism and cultural diversity correctly. The CSA is therefore calling for the creation of a new legal category for 'digital platforms', subject to a legal scheme separate from that of hosts, which could be based on the concepts of 'loyalty' and 'good faith'. The second main section of the CSA's contribution concerns the limits of the principle of country of origin. Services established outside the EU but targeting one or more EU States (250 services are established in the USA; Netflix is established in the Netherlands) could be considered determined to circumvent established European rules; the CSA therefore recommends applying the rules of the country in which the services are received. Regarding the rules laid down for commercial communications, the CSA advocates maintaining the status quo, as it feels the current rules are pertinent, effective, and fair, and that the French legal framework allows a proper regulation of practices. The same applies to the rules on the protection of minors, for which the established distinction in the Directive between broadcasting and the protection of on-demand content was deemed to still be pertinent. The CSA is thus in favour of maintaining the status quo, except with regard to the rules on the most harmful programmes made available on the AMSD, for which there did not appear to be enough protection: programmes 'likely to be seriously damaging to minors' are authorised by the AMSD subject to certain conditions. Given the transfrontier nature of the accessibility of online AMSD, however, the CSA feels measures governing access to such content could be tightened up, coordinated and harmonised (particularly with regard to technical measures). It also pronounced on the proposal in the Directive to allow

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the regulatory authorities independence, with the establishment of specific characteristics including for example the transparency of decision-making processes, the obligation to report back to interested parties, open and transparent procedures for appointing, designating and revoking members, powers of sanction, etc. Reporting on the results of the French presidency of the ERGA, CSA Chairman Olivier Schrameck recalled that the process for revising the Directive should begin in 2016.

Réponse du CSA à la consultation de la Commission européenne sur la directive Services de médias audiovisuels - Un cadre pour les médias du 21e siècle

http://www.csa.fr/content/download/210745/562186/file/R%C3%A9ponse%20CSA-FR%20consultation%20SMA.pdf

CSA response to the European Commission's consultation on the Audiovisual Media Services Directive - 'A media framework for the 21st century'

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