[FR] CSA study on digital platforms and the stakes for audiovisual regulation

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On 23 September 2016, the national audiovisual regulatory authority in France (Conseil Supérieur de l'Audiovisuel - CSA) published a study on the place of digital platforms in access to audiovisual content, their economic model, and the stakes for the sector. 'Digital platforms' refers to the social networks, video-share websites, app stores and search engines which offer new services that challenge the value chain and the usual legal categories of the audiovisual sector. The CSA study is based mainly on a series of hearings of stakeholders in the audiovisual, digital and advertising sectors and law and economics experts; they were asked four major questions: what place do these platforms occupy today in terms of access to audiovisual content; what place does audiovisual content occupy in the platforms' economic model; how have the audiovisual media services adapted to this new environment; and what are the stakes involved in terms of exposure and the monetisation of content? The incursion of these platforms on the audiovisual landscape, their concentration, and their market power raise a number of questions and constitute a number of issues that audiovisual regulation must face, such as the preservation of cultural diversity, media diversity, and the protection of both minors and consumers.

The CSA has identified ten aspects sector regulation must address. Firstly, there is the matter of the neutrality of the networks, and the means of ensuring non-discriminatory access to audiovisual services from the distribution networks and a balanced access for suppliers of content to the platforms. Secondly, there is the issue of how to improve the referencing conditions applied by the platforms, and how to reconcile the personalisation of content and the general aim of cultural diversity. The CSA also draws attention to the trend towards uniformity of content, the moderation of content, and the question of whether new methods of moderation could ensure a better balance between consumer protection and freedom of expression. The CSA also raises the question of respect of copyright, which constitutes the foundation for the financing of creative work, and innovations in advertising, both of which have to be able to reconcile the stakes and the expectations of all the players concerned. Lastly, one crucial aspect identified in the study is the distribution of value among the platforms and the traditional audiovisual stakeholders.

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At present, the platforms are not required to invest in production, and are not generally involved in the pre-financing of works, as is the case for traditional stakeholders. Moreover, the national framework can only deal with these issues in part since the platforms are present in a number of countries, most of which are not subject to even the basic rules laid down under Community regulations. This raises the question of whether the mechanisms for financing the creation of new works should be adapted. In concluding its study, the CSA notes that “the response that must come from the various authorities and jurisdictions to unprecedented development in the sector must be, firstly, measured and take into account all the parameters that influence the sector and, secondly, consistent at the European or even international level”.

Speaking on 27 September 2016 at a CSA study day entitled ‘The audiovisual sector in the digital space - platforms and data’, the Minister for Culture confirmed that “the second act of the cultural exception to the digital age must be European, otherwise it is bound to fail”, referring to the report on the issues facing the cultural industries in the digital universe, submitted by Pierre Lescure in 2013 to the French President and the Minister for Culture at the time. The Minister also recalled that the French authorities have supported extending the scope of application of the AVMS Directive to include video-sharing platforms. The Minister went on to propose that the platforms should also be required to combat the non-respect of human dignity, incitement to racial hatred, and the glorification of terrorism. Thus “we cannot continue to allow the major audiovisual platforms to hide behind a host status that has ceased to correspond to the reality of the services they offer”.

CSA, « Plateformes et accès aux contenus audiovisuels - Quels enjeux concurrentiels et de régulation », septembre 2016, 99 pages

http://www.csa.fr/content/download/223681/597947/file/CSA-Etude_plateformes_%202016.pdf

CSA , "Platforms and access to audiovisual content - the stakes in terms of competition and regulation", September 2016, 99 pages

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