[FR] CSA responds to proposed AVMSD reforms

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On 7 September 2017, the National Audiovisual Regulatory Authority (Conseil supérieur de l'audiovisuel - "the CSA") published its position on the reform of the Audiovisual Media Services Directive ("the AVMSD"). Following the adoption of a proposal to amend the Directive on 25 May 2016, the European Parliament and the EU Council issued a report and its general approach in April and May 2017, respectively, opening the way for a series of informal "trilogues" that should result in a revised directive being adopted in the coming months. The CSA called for ambitious compromises and a rapid conclusion to the negotiations, in view of the urgent need to adapt the text to reflect the realities of current practices and market conditions. It hoped that the revised directive would make regulation of the sector more relevant and effective, in particular by reducing the regulatory imbalances between different types of provider and encouraging new forms of regulation more suited to the digital environment.

The French regulator began by welcoming the European Commission's proposal to extend the scope of the directive to include video-sharing platforms. It also strongly supported the proposal of the Parliament and the Council to include social networks within the scope of the text. It hoped that the co-legislators would also consider including live streaming platforms, which were mainly used by young people, and thought such platforms should be asked to take measures to protect minors and to combat hate speech. The CSA also backed the Council's proposal that these platforms should be obliged to respect qualitative rules governing commercial communications.

In the second part of its statement, the CSA said that cultural objectives were shared more effectively but needed to be consolidated. In particular, it regretted the fact that the new obligation being proposed by the co-legislators to increase the proportion of European works in the catalogues of on-demand audiovisual media services (30% instead of the 20% proposed by the Commission) was close to that already being met by most of these services and remained too far below the majority proportion that linear services were required to show. Similarly, it thought that the obligations to give prominence to European works in the catalogues of on-demand audiovisual media services should be clearly set out in the directive, and that the question of recommendation algorithms should be discussed. Finally, the CSA noted that questions remained concerning member States' practical application of the obligations to respect catalogue quotas and

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give prominence to European works, and of the destination country principle for financial contributions - especially where there were multiple national and language versions.

The CSA also called for the AVMSD to continue promoting a high level of consumer protection. In particular, it welcomed the harmonisation of the rules on the protection of minors in a single instrument aimed at both linear and on-demand services. Concerning the protection of minors, the fight against hate speech and the battle against terrorism, the CSA drew the co-legislators' attention to non-European channels received in Europe that were subject to the jurisdiction of a member state under the technical criteria of the directive (satellite up-link then nationality of satellite capacity). In practice, the unstable nature of satellite up-links and the lack of criteria in respect of services transmitted from third countries by non-satellite methods created legal uncertainty and did not provide for effective control of certain sensitive channels. The CSA - which was particularly concerned by the difficulty of monitoring these channels - was pleased that the European Parliament had considered this question. However, it thought that, in order to create the necessary degree of effectiveness and predictability, the directive should give clearer precedence to the criterion of satellite nationality over that of satellite up-links, on condition that it was given the means necessary to monitor and control these channels.

Finally, the CSA welcomed the fact that the promotion of cooperation between member states and the role of regulators and of ERGA were central to the directive's implementation, in particular through the creation of co-regulatory systems.

Position du Conseil supérieur de l'audiovisuel sur la révision de la directive « Services de médias audiovisuels », 7 septembre 2017

http://www.csa.fr/Etudes-et-publications/Les-dossiers-d-actualite/Position-du-Conseil-superieur-de-l-audiovisuel-sur-la-revision-de-la-directive-Services-de-medias-audiovisuels

Position of the Conseil supérieur de l'audiovisuel (CSA) on the revision of the Audiovisual Media Services Directive, 7 September 2017

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