

[FR] More relaxed rules for scheduling cinematographic works on television?

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As part of plans to reform the audiovisual sector (whose implementation - initially scheduled to begin before the summer but now likely to be delayed in view of the need to “make room in the legislative calendar”), the Minister for Culture announced on 26 April the launch of a public consultation process regarding the possibility of relaxing the rules for broadcasting cinematographic works on television.

The rules covered by the consultation are a product of Decree No. 90-66 of 17 January 1990 (“the Broadcasting Decree”). This text limits total broadcasting time for cinematographic works - imposing a ceiling of 192 films on “non-cinema” channels (plus an extra 52 in respect of art-house works and a ceiling of 500 films for cinema channels - and the broadcasting of such works on days and at times of day most likely to be damaging to cinemas (taking into account their schedules); it does this on the basis of a system differentiating between the various categories of relevant services (unencrypted channels, cinema channels, etc.). The cinema schedule has been relaxed over the years to take account of agreements concluded between editors and professionals in the cinema sector; this continuous relaxation has rendered the system increasingly complex. In return, editors have given undertakings to make a special effort in favour of the cinema sector.

As part of its proposals for revising the regulation of the audiovisual sector presented in September 2018, the national audiovisual regulatory authority (Conseil Supérieur de l’Audiovisuel - CSA) has suggested the relaxation of this arrangement. In an opinion delivered on 21 February 2019, the French national competition authority (Autorité de la Concurrence) stated that, for its part, it was considering advocating abolition or relaxation. The matter is therefore all the more acute.

As observed during the consultation process, relaxing the arrangement currently in force would make it possible firstly to improve access to cinematographic works free of charge if they are to be broadcast on unencrypted channels, thereby offering the public a wider choice (since members of the public do not necessarily have ready access to cinemas or to pay-TV and VOD offers). Secondly, it would make it possible to respond to the criticism that the arrangements currently in

force are obsolete. To date, the ‘delinearised’ consultation of works (including catch-up TV offered by cinema services) that throws off all constraints regarding time of day and scheduling restrictions has not been accompanied by a corresponding drop in ticket sales.

If this relaxation were to lead to the total abolition of the film scheduling restrictions and broadcasting ceilings provided in the Broadcasting Decree, then the Act of 30 September 1986, which governs the laying down of such rules, could be amended as part of the draft legislation on the audiovisual sector.

The stakeholders are therefore being asked for their opinion on whether the regulations regarding the schedule for programming cinematographic works on television and the ceilings on the broadcasting of such works are still appropriate. In particular, they are asked whether the regulations make it possible to contribute to protecting the use made of films in cinemas, whether this is a good time to relax these rules, and especially whether a relaxation of the ceilings on broadcasting films should still retain different categories according to whether the service is a “cinema service” or not, or another distinguishing criterion should be introduced. The parties concerned are invited to submit their replies by 31 May.

Consultation publique sur l’assouplissement des règles relatives à la diffusion des oeuvres cinématographiques sur les services de télévision, 26 avril 2019

<http://www.culture.gouv.fr/Thematiques/Audiovisuel/Actualites/Consultation-publique-sur-l-assouplissement-des-regles-relatives-a-la-diffusion-des-oeuvres-cinematographiques-sur-les-services-de-television>

