

[FR] Adoption of ordinance transposing AVMS Directive

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*Amélie Blocman
Légipresse*

Law No. 2020-1508 of 3 December 2020 authorised the French Government to adopt an ordinance transposing Directive (EU) 2018/1808, known as the Audiovisual Media Services Directive (AVMSD), after the wide-ranging bill on audiovisual communication and cultural sovereignty in the digital age was abandoned because of the health crisis.

Without further ado, the ordinance of 21 December 2020 was adopted, amending the Freedom of Communication Act of 30 September 1986, the Cinema and Animated Images Code and the system of film release windows. The new legislation has two objectives: to protect the sustainability of the film production funding system, in particular for independent productions, and to guarantee fairness between French distributors and global platforms. To this end, Article 19 of the ordinance describes how foreign television and audiovisual media services aimed at French audiences will be required to contribute to the production of films and audiovisual works under the system that currently only applies to French service providers. The service providers in question will be able to sign an agreement with the French audiovisual regulator (Conseil supérieur de l'audiovisuel - CSA) setting out their obligations. The ordinance also creates a new chapter IV in the Act of 30 September 1986, which explains the new scheme applicable to video-sharing platforms, the directive's definition of which is replicated in Article 2 of the Act. Under the AVMSD, these platforms are now also subject to audiovisual regulation. Those that are established on French soil will be regulated by the CSA in accordance with the country-of-origin principle.

The ordinance also transposes several other provisions of the AVMSD. It prohibits incitement to commit acts of terrorism in programmes and strengthens the rules on the protection of minors by prohibiting service providers from processing the personal data of minors for commercial purposes. The CSA will also be tasked with encouraging service providers to adopt codes of conduct in relation to food advertising and promoting general-interest audiovisual services on new interfaces used to access audiovisual content.

Finally, the ordinance authorises the government to adopt a decree setting a deadline for the renegotiation of the professional agreement of 6 September 2018 on media chronology. If this deadline passes without an agreement being reached, the government will be able to temporarily determine the length and

terms of release windows that are not established in law.

In line with these new provisions, the government, backed by the CNC (*Centre national du cinéma et de l'image animée* - National Centre for Cinema and the Moving Image), has finalised the new version of the so-called AVMS decree, which sets out the obligations of foreign platforms that target French audiences in terms of their contribution to the financing of French and European audiovisual production. The draft decree, which provides for fixed contributions of between 20% and 25% of the turnover generated in France, was notified on 18 December to the European Commission, which, along with the member states, has until 19 March to submit its observations. The government's intention is that the decree should enter into force on 1 July 2021. Meanwhile, talks recently opened between television channels and production company representatives concerning the revision of the so-called DTT decree (Decree No. 2010-747 of 2 July 2010), which lays down the production obligations of television channels.

Ordonnance no 2020-1642 du 21 décembre 2020

<https://www.legifrance.gouv.fr/download/pdf?id=wqq5CCA5s0SfYJEGgvYNTvK88INS-C-q-NZWqUPb-UFY=>

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