[FR] Safeguarding of cultural creativity and founding of ARCOM: audiovisual reforms continue

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In the final phase of the legislative reforms initiated at the end of 2020 to transpose the AVMS Directive, the bill "on the regulation and protection of access to cultural works in the digital age" was presented to the Council of Ministers on 8 April 2021 and will be debated by the Senate on 18 and 19 May 2021. The government's decision to approve an expedited procedure means the new law could be adopted by the summer.

The bill incorporates and reinforces some of the provisions of the bill on audiovisual communication and cultural sovereignty in the digital age that was tabled in December 2019, the parliamentary examination of which was interrupted by the health crisis. It has two main objectives: firstly, to safeguard cultural creativity by strengthening anti-piracy tools and protecting catalogues of outstanding films; and secondly, to create the *Autorité de régulation de la communication audiovisuelle et numérique* (Regulatory Authority for Audiovisual and Digital Communication – ARCOM), a "new robust, powerful regulator geared up for the continuing convergence of audiovisual and digital media", by merging the *Conseil Supérieur de l'Audiovisuel* (the national audiovisual regulatory authority – CSA) with the Hadopi (High Authority for the Dissemination of Works and the Protection of Rights on the Internet).

The bill therefore strengthens measures to combat Internet piracy on streaming, direct download and referencing websites that make money by providing online access to works in breach of copyright, in particular by creating a 'blacklisting' mechanism and a system for combating mirror sites. It also makes provision for an emergency ad hoc mechanism for fighting sports piracy, rendered necessary by the inherent urgency of live sports broadcasts.

The newly created ARCOM will implement these new anti-piracy tools. Armed with greater powers than the current regulatory bodies, it will be responsible for all matters related to audiovisual and digital content, whether fighting piracy, safeguarding minors or protecting the public from disinformation and online hatred. The composition of the ARCOM board reflects its broader remit and stronger powers (conciliation procedure, investigative powers). In particular, in order to ensure the ARCOM can effectively monitor production funding obligations and impose appropriate sanctions, the relevant procedure is amended and bigger

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fines can be issued.

Finally, under the new bill, the continued exploitation obligation set out in Article L132-27 of the Intellectual Property Code, which currently only applies to producers, will apply to anyone who acquires French works, whatever their status or nationality. An obligation to give notice six months prior to the transfer of rights will enable the Minister of Culture, if necessary, to impose obligations guaranteeing the continued exploitation of French works in these catalogues. Under current legal provisions, it is not possible, within the context of free movement of capital as defined in European law, to guarantee public access to French works from audiovisual or film catalogues that are the subject of "predatory" acquisitions.

Projet de loi relatif à la régulation et à la protection de l'accès aux œuvres culturelles à l'ère numérique

http://www.senat.fr/leg/pjl20-523.html

Bill on the regulation and protection of access to cultural works in the digital age

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