[FR] New obligations for on-demand audiovisual media services

IRIS 2021-8:1/12

Amélie Blocman
Légipresse

As expected, since it constitutes one of the key elements of the current reforms resulting from the transposition of the Audiovisual Media Services Directive, the on-demand audiovisual media services (SMAD) decree was published and entered into force on 1 July 2021. Under the decree, foreign video on demand (VOD) platforms aimed at French audiences can be made subject to the same rules on financial contributions to cinematographic and audiovisual production as French-based services by way of derogation from the country-of-origin principle (Article 43-7 of the Law of 30 September 1986).

The decree lays down the rules applicable to on-demand audiovisual media services (SMADs), which include subscription-based, pay-per-view and free VOD services, as well as catch-up TV services, in relation to their contribution to European and French cinematographic and audiovisual production, the prominence given to these works, advertising, sponsorship and teleshopping. It replaces Decree No. 2010-1379 of 12 November 2010 concerning on-demand audiovisual media services.

In future, VOD services must devote at least 20% of the turnover they generate in France to the funding of European or French cinematographic and audiovisual production. The proportion is increased to 25% for services that offer films less than 12 months after their release. The ratio between cinematographic and audiovisual works will be laid down in an agreement to be concluded with the *Conseil supérieur de l'audiovisuel* (the French audiovisual regulator – CSA) within four months, with each category representing at least 20% of the total contribution. French-based service providers with a net annual turnover greater than EUR 1 million are required to sign such an agreement, which should set out their contribution obligations as well as their duty to offer and showcase these works and to provide rightsholders with access to exploitation data concerning their works. Those that fall outside French jurisdiction can choose whether or not to sign such an agreement.

A significant proportion of this contribution (three quarters for film production, two thirds for audiovisual production) will support independent production, which is defined according to criteria aimed at guaranteeing the preservation and development of local intangible heritage in France and the distribution of works.

© European Audiovisual Observatory (Council of Europe) 2026

SMADs may not have any direct or indirect financial interests in production companies and the rights must not exceed 36 months in duration, while coproduction shares, income rights, distribution mandates and secondary rights are not permitted. Diversity clauses must also be included in order to prevent the contribution being focused on big-budget films or certain genres (e.g. animation).

Chapter III of the decree requires at least 60% of the works in service providers' catalogues to be European, and at least 40% of these to be original French productions. It also contains rules on promoting these works via visuals, trailers and specific sections on the home page, and on recommending content to users through programme searches or promotional campaigns. Such conditions will be clarified in the agreement with the CSA. Finally, the rules governing commercial messages on these services are the same as for television services as defined in the decree of 27 March 1992.

This decree will be complemented by reform of the financing obligations applicable to television services (the so-called *TNT* (DTT) decree, currently in the final stages of negotiation with industry professionals) and modernisation of the media chronology system, in order to give these platforms, as compensation for their new obligations, shorter windows for showing films after their release in cinemas. Although the government had given the parties involved a deadline of 30 June, negotiations have stalled. If they fail, the government could intervene by way of a decree, but such a decree would need to be submitted for an opinion and a three-month examination by the European Commission.

Décret n° 2021-793 du 22 juin 2021 relatif aux services de médias audiovisuels à la demande

https://www.legifrance.gouv.fr/download/pdf?id=DDaclTsbssrrsYbYBQHvadAWhRDD8LWdMqRihxSDaKo=

Decree no. 2021-793 of 22 June 2021 on on-demand audiovisual media services

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026