

FRENCH REPUBLIC

Regulatory Authority for
Audiovisual and Digital
Communication

D R A F T

**Resolution No. of xx on the appropriate visibility conditions for
services of general interest and the arrangements for collecting the information referred
to in Article 20-7 of Law No 86-1067 of 30 September 1986 on freedom of
communications**

‘The Regulatory Authority for Audiovisual and Digital Communication,

Having regard to Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), taking into account changing market realities, in particular Article 7a and recital 25 thereof;

Having regard to Law No 86-1067 of 30 September 1986, as amended, on freedom of communication, in particular Article 20-7 thereof;

Having regard to Decree No 2022-1541 of 7 December 2022 implementing Article 20-7 of Law No 86-1067 of 30 September 1986 on freedom of communication, laying down the trigger thresholds and the time limit for the application of obligations to promote services of general interest;

Having regard to the replies to the public consultation on a draft resolution on appropriate visibility measures for services of general interest in accordance with Article 20-7 of the aforementioned Law of 30 September 1986 conducted by the Regulatory Authority for Audiovisual and Digital Communication between 14 March 2023 and 21 April 2023.

Whereas:

1. Article 20-7 of Law No 86-1067 of 30 September 1986 provides in its II that the Regulatory Authority for Audiovisual and Digital Communication specifies the conditions under which appropriate visibility is accorded to services of general interest within the user interfaces defined in I of that article. It also provides that, *‘taking into account user customisation options, appropriate visibility can be ensured in particular by highlighting:*

- 1. On the home page or screen;*
- 2. In recommendations to users;*

3. *In search results initiated by the user;*

4. *On remote control devices of equipment giving access to audiovisual communication services.*

The presentation chosen must also ensure the identification of the publisher of the service offered.'

III of Article 20-7 of Law No 86-1067 of 30 September 1986 also provides that the Regulatory Authority for Audiovisual and Digital Communication lays down the procedures by which operators of user interfaces shall report to it the measures they implement in order to ensure the appropriate visibility of services of general interest.

2. The purpose of this resolution is to specify the conditions under which appropriate visibility should be accorded to services of general interest on the home pages of the interfaces, on the one hand, and in the recommendations to users and the results of searches initiated by the user, on the other hand.

3. It also lays down the arrangements for reporting referred to in III of Article 20-7.

4. This resolution applies to the user interfaces referred to in I of Article 20-7 and appearing on the list published by Arcom before 15 March each year pursuant to Article 4 of Decree No 2022-1541 of 7 December 2022. With regard to equipment already placed on the market before the date of publication of this resolution, the Authority will take into account, in assessing compliance with this resolution, the time-limits that interface operators may need to make such equipment compliant with the obligations set out in Article 20-7 and, where appropriate, any technological impossibilities or major environmental constraints that are proven and justified.

Having duly deliberated,

Hereby decides:

Chapter I – Conditions by which the appropriate visibility of services of general interest is ensured

Article 1 – The operations necessary for a user to access a service of general interest or an environment grouping together services of general interest may not be more numerous or of a more restrictive nature than those necessary to access any other audiovisual communication service accessible from the interface, except unless this is a result of customisation at the sole initiative of the user.

These principles must also be complied with for access by a user to a program relating to a service of general interest.

Article 2. – Within a user interface, the services of general interest or the access point of the environment grouping them together shall be located in the same place as the most shown services.

Article 3. – In the results of searches carried out by users and in the recommendations addressed to them, services of general interest and their programs shall be treated in a fair and non-discriminatory manner with regard to other services and programmes and shall be identified by the publisher.

In the results of searches carried out by users and relating explicitly to a service of general interest or one of its programs, the user interfaces shall first show the service or program originating from it, the stream of which is provided directly by the publisher of that service or one of its subsidiaries or a subsidiary of the company which controls the publisher within the meaning of point 2 of Article 41-3 of the Law of 30 September 1986, unless expressly agreed between the publisher and the operator of the interface providing for specific stipulations.

Chapter II – Methods for collecting information on user interfaces

Article 4. - The operators mentioned in the first paragraph of II of Article 20-7 of the Law of 30 September 1986 and falling within the list provided for in the first paragraph of Article 4 of Decree No 2022-1541 of 7 December 2022 shall report to the Regulatory Authority for Audiovisual and Digital Communication, before 15 February each year, on the measures implemented during the previous year to ensure the visibility of services of general interest.

Chapter III – Final provisions

Article 5. – The provisions of this resolution shall apply in New Caledonia, French Polynesia, Wallis and Futuna and the French Southern and Antarctic Territories.

Article 6. – This resolution will be notified to the publishers of the services listed in Resolution No X of X on the list of services classified as being of general interest, pursuant to the provisions of Article 20-7 of Law No 86-1067 of 30 September 1986 on freedom of communication and operators of user interfaces subject to the obligations. It will be published in the *Official Journal* of the French Republic.

Done in Paris, on [XX]

For the Regulatory Authority for
Audiovisual and Digital Communication:
The Chairman,
R.-O. MAISTRE