

Regulatory Authority for Audiovisual and Digital Communication

Deliberation No 2024-19 of 25 September 2024 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 communication

NOR: RCAC2425589X

‘The Regulatory Authority for Audiovisual and Digital Communication,

Having regard to Directive (EU) 2010/13 of the European Parliament and of the Council of 10 March 2010 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), as amended by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018, and in particular Article 4(7) and (7a) thereof, and Recital 25 of Directive (EU) 2018/1808;

Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and notification No 2024/0093/FR of 20 February 2024;

Having regard to Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), in particular Article 27 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 and laying down the trigger threshold and the deadline for the application of appropriate visibility obligations for services of general interest;

Having regard to the replies to the public consultation on a draft deliberation 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. The defence of pluralism and the promotion of cultural diversity are objectives of general interest recognised by EU law.

2. 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 the same 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 results of searches 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 Authority lays down the procedures by which operators of user interfaces shall report to it the measures they implement in order to ensure this visibility.

3. 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.

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

5. 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, subject to the consequences of its customisation at the sole initiative of the user, as provided for in particular by the arrangements put in place pursuant to Article 27 of the European Digital Services Act.

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 performed by users and relating explicitly to a service of general interest or one of its programs, and without prejudice to the arrangements put in place pursuant to Article 27 of the European Digital Services Act, the user interfaces shall first show the service or program originating from it, the stream of which is provided directly by the publisher of this service or one of its subsidiaries or a subsidiary of the company which controls the publisher within the meaning of Article 41-3(2) of the Law of 30 September 1986, unless expressly agreed between the publisher and the operator of the interface providing for specific stipulations.

Article 4. - The provisions of Articles 1 to 3 shall apply to user interfaces whose operators are established on French territory or outside the European Union appearing on the list published annually by the Authority.

Article 5. - After examining on a case-by-case basis the visibility conditions for services of general interest offered on the user interface of a service provider established in another Member State of the Union and appearing on the list referred to above, the Authority may approach the Member State in which the interface operator concerned is established if these conditions do not meet the requirements of defending pluralism and promoting cultural diversity. At the end of this preliminary process with the Member State of establishment, the Authority shall, where appropriate, inform the Member State of establishment and the European Commission individually of the measures it intends to implement with regard to the interface operator concerned.

CHAPTER II

METHODS FOR COLLECTING INFORMATION ON USER INTERFACES

Article 6. - Operators established on French territory or outside the European Union covered by the list of interfaces published annually shall report to the Authority, before 15 February each year, on the measures implemented during the previous year to ensure the visibility of services of general interest. These provisions shall also apply to the operators of the interfaces appearing on this list and which have been the subject of measures taken individually under the conditions referred to in Article 5 of this deliberation.

CHAPTER III

FINAL PROVISIONS

Article 7. - The provisions of this resolution shall apply in New Caledonia, French Polynesia, Wallis and Futuna and the French Southern and Antarctic Territories.

Article 8. - This deliberation will be notified to the publishers of the services listed in Deliberation No 2024-18 of 25 September 2024 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 25 September 2024.

For the Regulatory Authority for Audiovisual and Digital Communication:

The Chairman,

R.-O. MAISTRE