

Regulatory Authority for Audiovisual and Digital Communication

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

NOR: RCAC2425593X

The Regulatory Authority for Audiovisual and Digital Communication,

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 2024/0092/FR of 20 February 2024;

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) in view of 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 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 the scope of services of general interest as prescribed by Article 20-7 of the Law of 30 September 1986 on freedom of communication carried out by the Regulatory Authority for Audiovisual and Digital Communication between 12 June 2023 and 13 July 2023;

Whereas:

1. Pursuant to Article 7a of the aforesaid Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018, known as the ‘Audiovisual Media Services Directive’ provides, ‘*Member States may take measures to ensure the appropriate prominence of audiovisual media services of general interest*’.

Article 20-7 of the Law of 30 September 1986 provides that ‘*services of general interest shall be understood as services published by one of the bodies mentioned in Title III of this Law (France Télévisions, Radio France, the national broadcasting company in charge of exporting French audiovisual content, Arte-France, the Parliamentary-National Assembly Channel, the Parliamentary-Senate Channel and the National Audiovisual Institute) and by the TV5 channel for the performance of their public service tasks*’ and, on the other hand, that ‘*Following a public consultation, the Regulatory Authority for Audiovisual and Digital Communication may include, in a proportionate manner and with regard to their contribution to pluralism of thought and opinion and to cultural diversity, other audiovisual communication services. It shall publish the list of such services.*’.

In accordance with those provisions, the Authority carried out a public consultation from 12 June to 13 July 2023 on the scope of services which could be classified as services of general interest.

2. The contribution of an audiovisual communication service to pluralism of thought and opinion and to cultural diversity, within the meaning of the aforementioned provisions, may be assessed in particular in the light of its publisher’s commitments relating, on the one hand, to the characteristics of the programming of that service and, on the other, to its contribution to the financing and distribution or exhibition of audiovisual and cinematographic works.

In assessing these commitments, other criteria may be taken into account, such as the conditions for making content available to the public, in particular where the service is accessible free of charge to the entire population.

3. Terrestrial television services are authorised following a tender process, the selection of which takes into account the specific commitments made by the applicants – in particular as regards pluralism, programming and contribution to the broadcasting and financing of audiovisual and cinematographic works – which are then included in the agreements concluded with the Authority. They therefore meet the criteria referred to in the first paragraph of point 2 above.

Among these services, national free-to-air terrestrial television services are subject to broadcasting and distribution obligations covering 100 % of the population of the mainland, in accordance with the provisions of Article 96-1 of the Law of 30 September 1986. In addition, these services are entitled to inclusion in the audiovisual offers of commercial distributors, in accordance with Article 34-2 of the Law of 30 September 1986.

Their dissemination therefore meets the objective of an offer which is easily accessible to the entire population specified in the second paragraph of point 2 above.

It follows from the above that national free-to-air terrestrial television services may be classified as services of general interest within the meaning of Article 20-7 of the Law of 30 September 1986.

4. In view of the changing usages and the growing importance of non-linear content, the programmes offered by television services are increasingly viewed as part of on-demand audiovisual media services and are often integrated, principally or exclusively, into global offerings available within application environments.

Accordingly, non-linear services made available free of charge to users and which are intrinsically linked to television services of general interest should be considered as services of general interest. These may be services enabling access, on demand, to the content of such television services (in particular catch-up television) or services providing access to audiovisual content that complements and enriches the offer of such television services (e.g. on-demand videos that are not broadcast in a linear fashion but are linked to a television programme, such as previous seasons of a series).

Non-linear services of general interest may be published within an audiovisual group by entities different from those which publish linear services. Having duly deliberated, Hereby decides:

Article 1. - Services of general interest within the meaning of Article 20-7 of the Law of 30 September 1986 on freedom of communication are:

(1) The services published by one of the bodies mentioned in Title III of the Law of 30 September 1986 and by the TV5 channel for the performance of their public service tasks;

(2) Free national television services holding a broadcasting licence issued pursuant to Article 30-1 of the Law of 30 September 1986, as well as on-demand audiovisual media services, made available free of charge to the user, intrinsically linked to these television services and published by the publishers of the latter, their subsidiaries or the companies controlling them within the meaning of Article 41-3(2) of the aforementioned Law of 30 September 1986 or their subsidiaries.

The publishers of services of general interest shall communicate to the Authority a list of their linear services of general interest and of the applications which they publish or which are published by their subsidiaries or by the companies which control them within the meaning of Article 41-3(2) of the aforementioned Law of 30 September 1986 or their subsidiaries and which make available, principally or exclusively, their services of general interest, in particular their on-demand services. They shall also communicate any changes to that list. After the Authority examines this list, it shall publish a list of all services of general interest and the applications concerned, which it shall transmit to the operators of interfaces subject to this resolution.

Article 2. - The provisions of this resolution shall apply in New Caledonia, French Polynesia, Wallis and Futuna and the French Southern and Antarctic Territories.

Article 3. - This deliberation will be notified to the publishers of the services referred to in Article 1 of this decision and to the operators of user interfaces subject to the obligations of Article 20-7 of Law No 86-1067 of 30 September 1986. 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