Our regulation is increasingly interactive and iterative

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Thirty years ago, this year, the Law of 30 September 1986, relating to freedom of communication, put the final stop to State monopoly on audiovisual communication. Since its introduction, the new system has always been, and continues to be, based on the affirmation of a single rationale: free assignment to private players of licenses to use frequencies, in exchange for general interest obligations aimed at guaranteeing pluralism, protection of audiences, and dynamic cultural content industries. The objective was to ensure effective audiovisual communication freedom in a context where public domain airwave frequencies—a scarce commodity—were the main means to broadcast radio or television services.

The technological environment has dramatically changed since, allowing the rise of multiple audiovisual media broadcasting modes; yet, in 2015, broadcasting operators confirmed their appetite for the off-air platform, on account, mainly, of its known advantages: free-to-air; anonymous; and universal. Local and national television operators' involvement in the HD DTT switch-over, requests by three television services to switch to free-to-air services, and capital transactions in the industry, in particular by telecommunications operators, all clearly demonstrated the attraction. Beyond conservation until 2030 of the frequencies currently allocated to DTT, as laid down in the Law of 14 October 2015, relating to

the second digital dividend, airwave frequencies, because of their unique properties, will undoubtedly remain a structuring feature in audiovisual content broadcasting, for many years to come.

Today, however, audiovisual communication is no longer limited to off-air broadcasting, and neither is regulation thereof. A myriad of on-demand audiovisual media services now exist that are, either broadcast by Internet service providers, or directly accessible on the Internet. These alternative modes of access, through digital platforms, are increasingly popular with audiences, as they provide access to a larger number of programs, at any given time.

Do the multiplicity of modes of access and a vaster, more customized, audiovisual content supply mean that the days of scarcity are over? Nothing could be more uncertain.

First, even though the digital revolution has led to a sharp increase in audiovisual media broadcasting channels, the issue of equal access to these channels is still alive. Sufficient bandwidth for broadcasting services is a central issue to achieving net neutrality, as underscored by the *Conseil supérieur de l'audiovisuel* as part of the public consultation relating to the draft Law for a digital Republic. Commitment to this principle was reaffirmed by the *Conseil*, while assurances were also given that implementation thereof would no put into question management of these services by Internet service providers themselves.

Second, audiovisual content abundance also gives rise to a new scarcity: quality. Abundance does not, in and of itself, guarantee access for citizens to diversified, pluralistic, quality programmes; far from it. The enhancement of French and European productions remains necessary so as to promote genuine, effective, diversity of cultural works, in this ocean of contents. In this respect, in particular, recommendation algorithms could lead to users being constricted into pre-made choices, which should be avoided. In

similar fashion, editorial audiovisual content should be made distinct in order to guarantee pluralism and avoid growing lack of trust on the part of citizens with respect to information found on the Internet. Finally, walled gardens must be set up to provide young audiences, in particular, with safe access.

Pluralism, safeguarding cultural content, and ensuring the conditions for thriving content industries are the pillars of the Law of 30 September 1986, relating to communication freedom, and the three overarching goals of audiovisual regulation; in a context where content is plentiful, they remain just as meaningful, even though they can no longer be necessarily required in exchange for assignment of a scarce commodity.

The CSA has long adapted its approach to the new environment; further impetus has been given to this effort since 2013. Our regulation is increasingly interactive and iterative. In 2015, as part of an on-going effort to ever more closely associate industry players and the public in the decision making process, several large national public consultations were organised, 115 hearings were held by the full Board—more than 90 of them in public—, and almost 9,000 referrals were received.

More generally, in today's digital environment, in order to support new regulation approaches, such as self-regulation and co-regulation, making information on the industry available to the public is a necessity.

One of the ways in which this can be done is the release of our raw data. Since the beginning of the year, the *Conseil* has disclosed, in open format, speaking times granted to political figures in audiovisual media, so as to, in particular, give citizens the ability to be on watch for imbalances based on this information. In 2015, the *Conseil* also published fifteen thematic reports and ten impact studies, which help us expand, on a continuous basis, our ability to act both as experts on, and observers of, industry developments.

By providing transparent and objective data on market positions, financing and broadcasting requirement performances, and all areas within our monitoring remit, the *Conseil* intends to fully play our role as industry watchdog, for the benefit of: the industry, the public, and Parliament.

With the help of this shared information, and its ownership by all, the *Conseil* wishes to steer progress in the broadcasting industry towards the kind of regulation we are keen to implement: voluntary commitments in the form of charters, labelling and certification mechanisms, partnerships and collective endeavours, etc. Such a widespread effort to adapt regulation must be supported and find echo at the European level. Following two years of French chairmanship, culminating in the meeting, in Paris, in April of 2015, of its 28 members, the European Regulators Group for Audiovisual Media Services (ERGA) has become a major interlocutor for the European Commission, in particular in the run-up to the reform of the audiovisual media services (AVMS) Directive. The Group has also become a crucible for solidarity between European Union regulators, at a time when the independence of some of them is being challenged.

The thirtieth anniversary of the Law of 30 September relating to communication freedom will take place in 2016, while that of the *Conseil supérieur de l'audiovisuel*, established under the Law of 17 January 1989, will take place three years from now, in 2019. In the intervening time, the *Conseil* will unfalteringly sustain this necessary reform effort, so that exercise of audiovisual communication freedom always work to guarantee pluralism and the public's interest.

Olivier Schrameck
Chair of the CSA

CSA decisions in relation to audiovisual media coverage of the attacks in France in 2015

In 2015, the main focus of the Conseil's activity in relation to ethics was the review of coverage by the media of the attacks in France, first on 7 and 9 January, and again, on 13 November 2015.

Keenly aware of the inherent difficulty of such news coverage, the *Conseil* sent editors a memorandum, on 9 January, asking television channels and radio stations to use the utmost care to enable, in particular, law enforcement authorities to fulfil their mission as efficiently as possible.

Subsequently, on 15 January, we convened heads of television channels and radio stations to a joint reflection meeting.

At the same time, in performance of our monitoring charge under the law, we monitored compliance by the same of the rules and principles of audiovisual communication. The analysis of approximately five hundred hours of programmes enabled us to identify segments in possible violation.

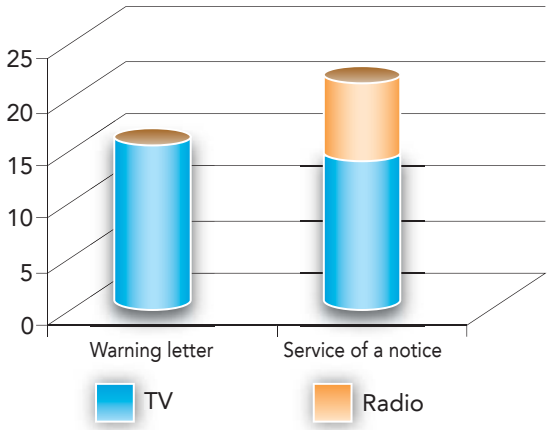
On Wednesday 11 February 2015, the *Conseil* officially recorded 36 violations: 15 led to a warning (*mise en garde*); notices (*mises en demeure*) were served on 13 television channels and radio stations, with respect to the remaining 21, more serious, cases. A vast majority of cases were information broadcast in disregard of basic rules of caution to maintain public order and safety, in violation of the provisions of article 1 of the Law of 30 September 1986. With respect to two services, the *Conseil* also noted the disclosure of specific pieces of information likely to enable identification of the suspects, and, therefore, likely to hamper the judicial process underway. The *Conseil* also intervened following broadcasting by a television service of a clip violating human dignity.

The above decisions dealt with the following facts:

- Broadcasting stills extracted from a video showing a police officer who had been shot and killed by the terrorists;
- Disclosure of pieces of information making it possible to identify the Kouachi brothers;
- Disclosure of the identity of a person accused of being one of the terrorists;
- Broadcasting of footage or information relating to the interventions under way when the terrorists were still entrenched in Dammartin-en-Goële and at the Hyper Cacher store at Porte de Vincennes;
- Announcing that confrontation was taking place in Dammartin-en-Goële when Amedy Coulibaly was still entrenched at Porte de Vincennes;

- Broadcasting information indicating that people were present and hiding in the places where the terrorists were entrenched when assault had not yet been given by the authorities and the persons' lives were, therefore, still in danger;
- Broadcasting footage of the assault given by the authorities at the Hyper Cacher store at Porte de Vincennes.

However, the *Conseil* is of the opinion that no violations were committed as part of the coverage of the attacks of 13 November 2015, which tends to indicate that our regulation at the beginning of the year was efficient.



Means of action available for the CSA

When a violation is noted, prior to any formal action, the *Conseil* automatically requests explanations on the part of the relevant editor in order to better grasp the circumstances in which the violation took place, and to identify whether action on the part of the *Conseil* should be considered. Editors and community organisations can also be heard on topics of joint interest. The *Conseil* is engaged in constant and in-depth dialogue with editors on issues relating to respect for rights and freedoms.

When the *Conseil* finds clear ethical violations, several means of action are at our disposal; they vary and are proportionate to the violations:

Regulation reminder in the form of a letter	*Informative or educational letter*
Warning letter (mise en garde)	*Letter recording evidence of a violation which could lead to service of a notice where the violation is repeated*
Service of a notice (Mise en demeure)	*Serves as a warning and/or an educational purpose where the editor is in obvious breach of its obligations Prerequisite to the opening of penalty proceedings*
Opening of penalty proceedings	*In the event of repeat violation of the same kind as the violation for which a notice has been served*
Penalty notion and publication	*Penalty decision*

As a result of the attacks in France in January and, again, in November 2015, the working group's agenda was extremely busy in 2015.