



4.12. FR – France – National Summary¹⁴⁵

4.12.1. Summary

In France, access to the market is granted exclusively by the regulatory authority (Conseil supérieur de l'audiovisuel, hereinafter CSA).¹⁴⁶ This competence also includes the allocation of DTT frequencies both to public and private AVMS providers.

The CSA is also in charge of monitoring the compliance of all AVMS providers with the regulatory framework.

Four systems are used: public service, licensing, notification and open system. The type of system used depends on the following combination of criteria:

- the public or private nature of the AVMS;
- the distribution means of the AVMS;
- the amount of the annual turnover of the AVMS;
- the content of the AVMS.

These combinations create a complex mapping of potential situations which can hardly be summarised as in all the other factsheets, but which are explained in detail in the following sections.

Table 84. Applicable systems

System	Category
Licensing	Beauty contest Individual licence
Notification	N/A
Public service	Other agreements (legal licence & administrative licence & mission statement)
Open system	N/A

Source: French response to European Audiovisual Observatory standardised questionnaire

¹⁴⁵ The factsheet on France incorporates the feedback received from members of the *Conseil Supérieur de l'Audiovisuel* (CSA) during the checking round with media regulators. No further remarks were received from the members of the Contact Committee set up by the AVMSD.

¹⁴⁶ <http://www.csa.fr/>



4.12.2. Functioning of the applicable systems

Pursuant to the Law on Freedom of Communication,¹⁴⁷ several types of licences are granted by the CSA:¹⁴⁸

- The first category of licences are administrative authorisations to use frequencies. These licences are issued by the CSA to the following service providers or network operators:
 - public service media (France Télévisions,¹⁴⁹ France Médias Monde,¹⁵⁰ Arte-France¹⁵¹ and The Parliamentary Channel-LCP¹⁵²);
 - DTT networks operators jointly proposed by licensed DTT services;
 - local and regional authorities for the distribution of licensed DTT services in non-covered areas;
 - satellite networks operators.¹⁵³
- The second category of licences associates administrative authorisations to use frequencies allocated by the CSA and legal agreements setting forth the specific obligations of each AVMS. These licences are granted after a call for applications to:
 - private linear AVMS meant for distribution via DTT;
 - private non-linear AVMS providing services other than the catch-up TV of licensed DTT services;¹⁵⁴
 - private linear AVMS meant for distribution via satellite or non-linear AVMS when the available radio-electric resource is not sufficient to ensure the pluralism of socio-cultural opinions;¹⁵⁵
- The third category of licences are legal agreements to be concluded between the CSA and linear AVMS distributed by licensed satellite networks and other electronic communications networks not using frequencies allocated by the CSA when their annual turnover is higher than EUR 150 000 or when their programming is mainly dedicated to information on local life.

¹⁴⁷ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930> (in French)

¹⁴⁸ <http://www.csa.fr/>.

¹⁴⁹ <http://www.francetelevisions.fr/>.

¹⁵⁰ <http://www.francemediasmonde.com/>.

¹⁵¹ <https://www.arte.tv/fr/>.

¹⁵² <http://www.lcp.fr/>.

¹⁵³ The regime of licences to satellite networks operators is foreseen only if frequencies are allocated for broadcasting on satellite (Article 30-6 of the Law on Freedom of Communication). Nevertheless, AVMS are only distributed on networks using frequencies allocated for telecom providers and, consequently, this regime has never been used.

¹⁵⁴ The possibility of broadcasting audiovisual content without having to go through a call for tender is only possible for data related to an authorised service (for instance, data for the deaf or persons with impaired hearing). Catch-up TV is considered as a distinct service since the review of the Law on Freedom of Communication in 2009 and, consequently, broadcasting the catch-up TV of a licensed DTT service should require a specific licence and it should not be possible to share the radio-electric resource allocated to the linear AVMS. Nevertheless, this point is theoretical since there is no catch-up TV available on DTT.

¹⁵⁵ This rule is also derived from Article 30-6 of the Law on Freedom of Communication. As for satellite networks operators, no licence has been granted on this basis to private linear AVMS.



No legal agreement is needed for the simultaneous and unabridged retransmission of licensed DTT services, except for local television services when the population of the area covered increases to over ten million inhabitants.

The following services have to be notified to the CSA:

- commercial distributors of licensed private DTT services;
- linear AVMS (other than licensed DTT services) distributed by electronic communications' networks not using frequencies allocated by the CSA when their annual turnover is lower than EUR 150 000 and their programming is not mainly dedicated to information on local life;
- non-linear AVMS distributed on electronic communications networks not using frequencies allocated by the CSA;
- distributors whose services are provided to more than one hundred households on electronic communications networks not using frequencies allocated by the CSA.

The following activities benefit from fully open access to the market, with no obligation of any kind to signal their existence to the competent authority:

- On electronic communications' networks not using frequencies allocated by the CSA (that is to say: cable, IPTV, satellite and OTT):
 - The simultaneous and unabridged retransmission of DTT public and private licensed AVMS, except for local linear AVMS when the population of the area covered increases to over ten million inhabitants.
 - The distribution of linear and non-linear AVMS provided to less than 100 households;
 - The broadcasting of non-EU linear AVMS under France's jurisdiction because they use a satellite uplink from a station situated in France or, even if they do not use a satellite uplink situated in another EU Member State or another state party to the European Economic Area, they use a French satellite capacity;
 - The broadcasting of linear AVMS under the jurisdiction of another EU Member State, or of a state party to the European Economic Area, or of a state signatory to the European Convention on Transfrontier Television.

The duration of the licences shall not exceed ten years. Beauty contest licenses are granted for ten years. Legal agreements (between the CSA and linear AVMS distributed by cable, IPTV, satellite and OTT) are usually concluded for a renewable period of five years. Notifications have no limited term, but if the CSA notes that the annual turnover of an AVMS exceeds EUR 150 000, the notification shall be replaced by a legal agreement.

If the licence is not granted, the applicant has the opportunity to lodge an appeal with the Council of State¹⁵⁶ (for national services) or with the Paris Administrative Court of Appeal¹⁵⁷ (for all other services) within two months of receipt of the decision. Judgments

¹⁵⁶ <http://www.conseil-etat.fr/>.

¹⁵⁷ <http://www.paris.cour-administrative-appel.fr/>.



of the Paris Administrative Court of Appeal may be reviewed by the Council of State in appeal.

Table 85. Functioning of the applicable systems

System	Category	Authority	Description of the procedure
Licensing	Beauty contest Individual licence	CSA	Licence granted by the CSA on the basis of a set of criteria determined by law and by the CSA
Notification	N/A	CSA	Notification to send prior to the launch of the service to the CSA, who acknowledges its receipt
Public service	Other agreements (legal licence & administrative licence & mission statement)	Parliament & CSA & Government	The public service media are granted a legal licence by the Parliament, an administrative licence by the CSA and negotiate a mission statement with the Government
Open system	N/A	CSA	Monitoring by the CSA

Source: French response to European Audiovisual Observatory standardised questionnaire

4.12.3. Application to public audiovisual media service providers

Public AVMS providers using DTT frequencies allocated by the CSA are entrusted with public service missions and are subject to a specific licensing system associating a legal licence (by a law which determines which AVMS providers are public AVMS providers) and an administrative licence (from the CSA, in order to allow the use of frequencies). Contrary to private AVMS providers, they do not have to enter into an agreement with the CSA, because their obligations are set forth in mission statements adopted by government decrees.¹⁵⁸

The Law on Freedom of Communication grants the following public AVMS providers the right to use DTT frequencies allocated by the CSA:

¹⁵⁸ This is only the case for France Télévisions and France Médias Monde. The obligations for Arte are set forth in a treaty between France and Germany and the obligations concerning LCP are determined by law and a legal agreement adopted by the bureau of each assembly.



- the national companies France Télévisions and France Médias Monde;
- the European cultural channel ARTE-France;
- the Parliamentary Channel (LCP).

As they are granted a legal licence and a priority right of access to available frequencies, these public AVMS providers are exempt from applying to any tender. Frequencies for broadcasting national public television programmes are allocated by the CSA without any call for applications but in consideration of their public service missions. The CSA may refuse the allocation of a frequency that would not be necessary for the fulfilment of such a mission or if the requested allocation is likely to undermine programme pluralism in the private sector. The priority right may be exercised upon request of the government.

Table 86. Access to market by public service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Other agreements (legal licence & administrative licence & mission statement)	Parliament & CSA & Government
<i>Via cable</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via IPTV</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via satellite</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via OTT</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Non-linear</i>		
<i>Via DTT</i>	Other agreements (legal licence & administrative licence & mission statement)	Parliament & CSA & Government
<i>Via cable</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via IPTV</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via satellite</i>	Other agreements (legal licence & mission statement)	Parliament & Government
<i>Via OTT</i>	Other agreements (legal licence & mission statement)	Parliament & Government

Source: French response to European Audiovisual Observatory standardised questionnaire



4.12.4. Application to private (commercial) audiovisual media service providers

Different types of licensing and notification processes are applied depending on whether the AVMS are distributed via frequencies allocated by the CSA (that is to say, DTT) or via other means.

Distribution via DTT

The licensing of AVMS distributed via DTT takes the form of a beauty contest.

The procedure starts with the publication by the CSA of a tender, which shall be preceded by a public consultation organised by the CSA when the licensing procedure is likely to produce significant changes on the relevant market. In this case, the CSA shall carry out and make public an impact assessment to measure, in particular, the economic impact of such licences. If the prior public consultation or impact assessment reveals that the economic situation of the market is not in favour of the launch of the procedure, the CSA is allowed to postpone the process for a two-year period that may be renewed once for two further years.

Otherwise, the CSA launches a call for applications, specifying the categories of services concerned; the relevant geographic areas for local television services; the available resource; and the list of frequencies to be allocated. The tender also details the application procedure, including the application term; the content of application files in terms of programming and funding; the different stages of the procedure; and the criteria of selection. The CSA shall privilege free-to-air services.

The applicant shall provide the information mentioned in Articles 30 and 30-1 of the Law on Freedom of Communication, such as: information about the applicant; its legal status, capital and leaders; the object and general characteristics of the project in terms of programming; the technical characteristics; estimated expenditures and revenues; the origin and amount of planned funding; the means of commercial distribution; the share of programming devoted to local expression; the planned geographic areas; the constituent parts of a future legal agreement; and the technical propositions regarding the need for resource and the choice of frequencies.

Upon expiration of the application term, the CSA adopts a list of qualified applicants. The criteria to be taken into consideration are: compliance with the application term; the actual existence of the applicant legal person; and the application file's content and service project. All qualified applicants are invited to a public hearing during which they present their project. After this public hearing, the CSA selects the successful applicants on the basis of criteria set forth in the Law on Freedom of Communication.

Legal agreements between the CSA and the selected applicants shall be signed before broadcasting licences can be issued. These legal agreements define the licensee's obligations.

National private free-to-air DTT licensed AVMS can include, within the framework of their licence, regional programming windows under their editorial responsibility within the limit of three hours a day.



A simplified licensing process without the prior publication of a call for applications applies to the use of new frequencies in special/particular geographic areas in order to ensure better reception of DTT licensed services, and to DTT network operators (which are jointly proposed by licensed DTT services).

The deadline obliging the CSA to conduct a tender procedure is eight months from the date of receipt of the applications. The deadline imposed on an AVMS provider for the effective provision of its service is determined in the licence.

Distribution via other means

The licensing of AVMS distributed via other means takes the form of an individual licence (legal agreement) or a notification depending on their turnover and their content. A legal agreement with the CSA is required if the annual turnover is higher than EUR 150 000 and a notification if the turnover is below this threshold. In respect of linear AVMS providing information on local life, a legal agreement is required, regardless of their turnover.

In any event, these AVMS have to send a file to the CSA at least two months before the launch of the service. This file should provide a general description of the service, information identifying the provider, and forecasts for the service programming, broadcasting and funding. Other questions depend on whether the applicant service is a cinema service or not.

The deadline obliging the CSA to respond to an application is two months. The deadline imposed on an AVMS provider for the effective provision of its service is determined in the legal agreement.

Open system

The activities detailed in section 4.12.2 above which benefit from fully open access to the market have no obligation of any kind to signal their existence to the competent authority. However, this does not mean that an inventory of these AVMS does not exist. For the fulfilment of its legal missions, and by virtue of Article 19 of the Law on Freedom of Communication, the CSA is allowed to carry out investigations and to collect all necessary information from AVMS providers and distributors to ensure that they comply with their obligations. No formality is required, but the CSA can use the power granted by Article 19 of the law to establish an inventory of the existing services.

The catch-up TV of licensed AVMS is usually included in public service media mission statements and private AVMS providers' legal agreements. It is often the same for the simultaneous and unabridged retransmission of DTT public and private licensed AVMS. Otherwise, the CSA may ask licensed AVMS providers to provide information on the nature of their offer.

Regarding non-EU television services under France's jurisdiction because they use a satellite uplink from a station situated in France or a French satellite capacity, Article 19 of the law provides that the CSA is allowed to collect all necessary information from satellite networks operators to identify the provider.



Table 87. Access to market by private service providers

Service	Category	Authority
<i>Linear</i>		
<i>Via DTT</i>	Beauty contest	CSA
<i>Via cable</i>	Individual licence	CSA
	Notification	CSA
	Open system	None
<i>Via IPTV</i>	Individual licence	CSA
	Notification	CSA
	Open system	None
<i>Via satellite</i>	Beauty contest	CSA
	Individual licence	CSA
	Notification	CSA
	Open system	None
<i>Via OTT</i>	Individual licence	CSA
	Notification	CSA
	Open system	None
<i>Non-linear</i>		
<i>Via DTT</i>	Beauty contest	CSA
	Open system	None
<i>Via cable</i>	Notification	CSA
	Open system	None
<i>Via IPTV</i>	Notification	CSA
	Open system	None
<i>Via satellite</i>	Notification	CSA
	Open system	None
<i>Via OTT</i>	Notification	CSA
	Open system	None

Source: French response to European Audiovisual Observatory standardised questionnaire

4.12.5. Application to regional/local audiovisual media service providers

The same procedure as the one described in section 4.12.4 above is applicable.



4.12.6. Application to community (non-profit) audiovisual media service providers

The same procedure as the one described in section 4.12.4 above is applicable.

4.12.7. Licence fee

There is no licence fee.

4.12.8. Media ownership and concentration

The transparency of ownership of all AVMS providers is ensured via the obligation to provide the relevant data when applying for a licence or notifying, as well as in case of a direct or indirect modification concerning a legal person holding a licence.

Media concentration is avoided at several stages of the licensing process. Pluralism, diversity of operators and free competition are regarded as “*priority requirements*” to be taken into consideration by the CSA in the DTT licensing process. The CSA has to consider the interest of each project for the public, in particular with regard to “*the need to avoid abuses of dominant position or anti-competitive practices.*” In order to limit media concentration, the CSA has also to take account of the applicant’s direct and indirect shareholdings in the capital of one or several advertising or press publishing companies.

Pursuant to Article 28 of the Law on Freedom of Communication, legal agreements to be concluded between the CSA and private AVMS providers have to set up specific rules “*in accordance with fairness and pluralism of information*” and taking into account the competition conditions of various services on the market. The agreement should also provide for measures to be carried out to ensure fairness, independence and the pluralism of information.

While assessing the applications, the CSA must also ensure compliance with anti-trust rules provided for by several provisions of the law regarding capital shares and the number of licences that may be held by a single person; for instance, Article 39-I provides that the same natural or legal person may not own more than 49% of the capital or voting rights of a company holding a licence for a national DTT service whose annual average audience exceeds 8% of the total audience of television services. Under Article 39-III, a national DTT licence holder may not own more than 33% of the capital or voting rights of a company holding a licence for a DTT service other than national, if the annual average audience of the national service exceeds 8% of the total audience of the television services. According to Article 41, nobody can hold two licences for national DTT services, except for personal mobile television services. But the same person may hold up to seven licences to broadcast national DTT services if these services are edited by separate companies. In respect of local or regional DTT services, a single person may hold several



licences if the population registered in areas covered by all its DTT licensed services does not exceed twelve million inhabitants. However, the holder of a DTT service licence for a determined area could not get another licence for another DTT service broadcast in the same area.

Before granting licences, the CSA has also to take account of the so-called “*two positions out of three rule*” (Articles 41-1-1 and 41-2-1) to avoid that a single person holding interests in three different media sectors (television channels, radio stations and print media publishing companies) undermines pluralism at national or local level.

Table 88. Main issues regarding media ownership and concentration

Issue	Description
Transparency of ownership issues considered during the licensing or notification process	Relevant data has to be provided when applying for a licence or notifying
Media concentration issues considered during the licensing process	Various ownership, cross-media ownership and audience share thresholds

Source: French response to European Audiovisual Observatory standardised questionnaire

4.12.9. Management of the licence and notification

Licences are granted for a maximum of ten years and notifications have no limited term.

DTT licences may be renewed without a call for applications for a period of five years, unless:

- the state has changed the frequency’s destination;
- the licensee has been subject to a sanction or conviction;
- renewal is likely to undermine pluralism at national, regional or local level;
- the service provider’s financial position no longer allows it to continue exploiting the service.

Eighteen months before the expiration of a DTT licence, the CSA publishes its justified decision to make use of or not to make use of the licence renewal procedure without any call for applications. This decision mentions the main points of the legal agreement that the CSA or the licensee wants to be amended. Within one month of the date of the publication of its decision, the CSA organises a public hearing of the provider and any potentially interested third parties. The licence may be renewed if an agreement on the renegotiated agreement is reached nine months before the expiration of the licence; otherwise, a new tender is launched.

Legal agreements are usually concluded for a five-year renewable period. Six months before the end of its legal agreement, the provider has to inform the CSA of any changes it would like to be made to this agreement in the event of its renewal. While assessing the renewal requests, the CSA takes into account the provider’s compliance with its contractual commitments and obligations.



Suspension and revocation are among the administrative sanctions that can be decided by the CSA. Sanctions have to be decided following a gradual approach and, in the case of revocation, shall be preceded by a formal notice, which in itself shall be preceded by other sanctions such as warnings; the broadcast of a statement on air; the suspension of a programme; administrative fines; or a reduction in the length of the licence or of the legal agreement for a maximum of one year. However, pursuant to Article 42-3 of the Law on Freedom of Communication, a licence may be revoked by the CSA without any prior formal notice in case of substantial changes in the data on the basis of which the licence was granted, such as changes in the composition of share capital or managing boards and changes in financing terms.

Modifications in the licence conditions require prior approval by the CSA and, if necessary, an assessment of the impact on the relevant market.

Table 89. Main issues regarding the management of the licence

Issue	Description
Duration	5 or 10 years
Procedure to renew	Upon the request of the licensee
Procedure to suspend	Same as for other sanctions
Procedure to revoke	Same as for other sanctions
Procedure in case of termination of the provision of the service	Notification to the CSA
Procedure in case of modifications in the licence conditions	Prior approval of the CSA
Procedure in case of modifications to the service with a view to targeting different audiences	Different linear and non-linear AVMS have to be licensed or notified accordingly

Source: French response to European Audiovisual Observatory standardised questionnaire

4.12.10. Future amendments to the regulatory framework

N/A.

4.12.11. Video-sharing platforms

N/A.

4.12.12. Applicable regulatory framework

- Primary legislation:



- In French - Loi N°86-1067 du 30 septembre 1986 relative à la liberté de communication (Law on Freedom of Communication): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930>
- Secondary legislation:
 - Décret N°2005-1355 du 31 octobre 2005 relatif au régime déclaratif des distributeurs de services de communication audiovisuelle et à la mise à disposition du public des services d'initiative publique locale (Decree on notification system of audiovisual communication services' distributors and public availability of local public initiative services): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000449374&dateText>
 - Décret N° 2009-796 du 23 juin 2009 fixant le cahier des charges de la société nationale de programme France Télévisions (Decree establishing the mission statements of France Televisions): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020788471&dateTexte=20171012>
 - Décret N° 2010-1593 du 17 décembre 2010 relatif aux services de télévision et de médias audiovisuels à la demande relevant de la compétence d'un autre Etat membre de l'Union européenne ou partie à l'accord sur l'Espace économique européen ou à la convention européenne sur la télévision transfrontière du 5 mai 1989 (Decree on television and on-demand media audiovisual services under jurisdiction of another European Union Member State or of a State party to the European Economic Area or to the European Convention on Transfrontier Television of 5 May 1989): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023247562&dateTexte=20171012>

4.12.13. Data compilation

This factsheet was produced based on data compiled by Agnès Granchet, Associated professor, Panthéon-Assas University.