

Madame la Directrice générale des médias et
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Madame la Directrice générale,

RE: Public consultation on the needs to adapt regulation in light of the study of the Culture Ministry and Arcom on the evolution of the communication market and its impact on the financing of media via advertising

In the context of the publication of the French studies and consultations on the future of audiovisual advertising and its impact on media financing¹, members of the ACT representing Europe's largest commercial broadcasters wish to share their views.

We commend French authorities for their leadership in this area. The studies published underline the important benefits that a long-awaited modernisation of audiovisual advertising rules could bring. Key findings include:

- Alignment of audiovisual and non-audiovisual advertising rules will not lead to detrimental effects on other media sub-sectors. Audiovisual-specific restrictions in the name of pluralism are thus not justifiable.
- TV advertising is a powerful instrument and drives cultural diversity, for instance by increasing cinema ticket sales by as much as +123% for certain types of movies.
- Growth in digital advertising will disproportionately benefit actors that do not invest in content, in large part due to existing regulatory asymmetries between regulated media and big tech.

The studies' findings underline the need for a more level playing field between audiovisual media service providers and other actors active in the advertising market. This includes, in particular, phasing out outdated restrictions that apply only to audiovisual media services and contribute to regulatory asymmetry (in the event of a potential re-opening of the AVMSD), such as category restrictions – some of which are specific to France and put additional pressure on the market – or limits to regional or local advertising.

This is in line with recent ECJ case law, which underlines that national advertising legislation should “be suitable for securing the attainment of (an) objective” and “not give rise to unequal treatment

¹ <https://www.culture.gouv.fr/Thematiques/Audiovisuel/Perspectives-d-evolution-du-marche-publicitaire-francais-a-l-horizon-2030-publication-d-une-etude-et-ouverture-d-une-consultation-publique>;
<https://www.culture.gouv.fr/Thematiques/Audiovisuel/Regles-relatives-a-la-publicite-televee-publication-de-l-etude-d-impact-de-l-experimentation-de-la-publicite-TV-pour-le-cinema-et-ouverture-d-u>

between national television broadcasters and internet advertising providers”.²

In the specific French case, we welcome the authorities’ experiment with regard to allowing cinema advertising on TV and recommend not only making it permanent, but also extending it to TV advertising for the distribution and book sectors.

We’ve also taken note of and welcome various stakeholders’ proposals to create schemes to incentivise advertisers to direct their advertising spend to media that invests in content, positively contributing to European cultural objectives and journalism, rather than platforms that do not. This is an idea that merits further consideration.

We hope that this consultation process initiated by France can be the starting point of a broader European discussion on the liberalisation of audiovisual advertising rules and the creation of a more level playing field between all actors involved in advertising markets.

Separately, we take this opportunity to underline that in our view the introduction of the Digital Services Act and Digital Markets Act are positive and could have a positive impact on media refinancing. However, their proper and effective enforcement will be key for the media sector to see any tangible benefits.

We remain at your disposal to discuss these matters should you wish to do so.

Grégoire Polad
Director General | Association of Commercial Television and Video on Demand Services in Europe



² ECJ Case C-555/19 - Fussl Modestraße