



HAL
open science

Television across Europe: Regulation, Policy and independence: France

Thierry Vedel

► **To cite this version:**

Thierry Vedel. Television across Europe: Regulation, Policy and independence: France. Television across Europe: Regulation, Policy and Independence. Monitoring Report, Open Society Institute, pp.637-728, 2005, 9781891385476. hal-01053946

HAL Id: hal-01053946

<https://sciencespo.hal.science/hal-01053946>

Submitted on 29 Sep 2014

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Television across Europe:
regulation, policy and independence
France

Table of Contents

| | |
|--|-----|
| 1. Executive Summary | 642 |
| 2. Context | 643 |
| 2.1 Background | 644 |
| 2.2 Structure of the television sector | 648 |
| 3. General Broadcasting Regulation and Structures | 650 |
| 3.1 Regulatory authorities for the television sector | 651 |
| 3.1.1 The High Council for Broadcasting (CSA) .. | 653 |
| 3.2 Licensing | 657 |
| 3.3 Enforcement measures | 659 |
| 3.4 Broadcasting independence | 662 |
| 4. Regulation and Management of Public Service Broadcasting | 665 |
| 4.1 The public broadcasting sector | 666 |
| 4.2 Funding | 669 |
| 4.2.1 Licence fees | 670 |
| 4.2.2 Advertising revenues | 672 |
| 4.3 Governance structure | 673 |
| 4.4 Programming framework | 675 |
| 4.4.1 Public service mission | 675 |
| 4.4.2 Expression of political, social and religious forces | 677 |
| 4.4.3 Requirements for cultural programmes | 678 |
| 4.5 Editorial standards | 680 |
| 5. Regulation and Management of Commercial Broadcasting | 683 |
| 5.1 The commercial broadcasting system | 683 |
| 5.2 Commercial television ownership and cross-ownership | 684 |
| 5.3 Programme framework | 687 |
| 5.4 Editorial standards | 689 |
| 6. Broadcasting Regulation – Common Obligations | 690 |

| | | |
|-------|---|-----|
| 6.1 | Pluralism and information fairness | 690 |
| 6.1.1 | General guidelines for internal political pluralism | 691 |
| 6.1.2 | Regulations during electoral campaigns | 691 |
| 6.2 | Defence of cultural diversity | 692 |
| 6.2.1 | Programming obligations in the form of quotas | 693 |
| 6.2.2 | Programming restrictions | 694 |
| 6.2.3 | Support of European and French movies and TV productions | 694 |
| 6.2.4 | Representation of the French society's cultural diversity | 695 |
| 6.3 | Protection of minors | 697 |
| 6.4 | Advertising and sponsoring | 699 |
| 7. | European Regulation | 701 |
| 8. | The Impact of New Technologies and Services | 703 |
| 8.1 | French new media policy over the past two decades . | 703 |
| 8.2 | The future of broadcasting: between DTT and ADSL | 706 |
| 9. | Conclusions | 709 |
| 10. | Recommendations | 713 |
| 10.1 | Media policy | 713 |
| 10.2 | Regulatory bodies | 713 |
| | Annex 1. Tables | 715 |
| | Annex 2. Legislation cited in the report | 726 |
| | Annex 3. Bibliography | 727 |

Index of Tables and Figures

| | | |
|-----------|---|-----|
| Table 1. | The three periods of the French broadcasting system | 647 |
| Table 2. | Audience share of the main television channels (2004) | 648 |
| Table 3. | The roles of the Government, Parliament and the CSA in regulating broadcasters | 653 |
| Table 4. | The CSA's powers and tools | 655 |
| Table 5. | Chronology of the licensing of private broadcasters | 658 |
| Table 6. | FM radio stations (as of 31 December 2003) | 659 |
| Table 7. | Licence fee (1985–2004) | 671 |
| Table 8. | Share of licence fee revenue in the revenue of the public broadcasters (2002) | 671 |
| Table 9. | Major strikes in public broadcasting (since 1990) | 676 |
| Table 10. | Excerpts from France Télévisions' programming chart | 681 |
| Table 11. | Ownership regulation | 686 |
| Table 12. | Private broadcasters compliance with their programming requirements (2002) | 687 |
| Table 13. | Canal+ obligations, as compared to other broadcasters (2002) | 688 |
| Table 14. | Chronology for the distribution of feature films to various media | 694 |
| Table 15. | COSIP financial statement (2001) | 695 |
| Table 16. | Categorisation of programmes in terms of suitability for young viewers | 698 |
| Table 17. | Audience and advertising market shares of the main terrestrial television channels (2003) | 700 |
| Table 18. | Cable and satellite penetration in France (1992–2002) | 704 |
| Table 19. | Main cable operators in France (as of 31 March 2004) | 705 |
| Table 20. | Number of Internet users in France (1995–2004) | 708 |
| | | |
| Table A1. | Main laws and regulations governing French broadcasting | 715 |
| Table A2. | General broadcasting obligations of the national television operators – as established by their terms of reference (cahiers des charges), for public broadcasters, or licensing contracts, for private broadcasters. | 716 |
| Table A3. | Programming obligations for national terrestrial television channels (2002) | 718 |
| Table A4. | Production obligations for the national terrestrial television channels (2002) | 719 |
| Table A5. | Revenues of the national terrestrial television channels (2003) | 719 |

| | |
|--|-----|
| Table A6. Advertising market share of the national terrestrial television channels (1998–2003) | 720 |
| Table A7. Audience share of the terrestrial national television channels – for viewers over 4 years of age (1996–2003) | 720 |
| Table A8. Annual output of the national terrestrial television channels – breakdown by genre (2002) | 721 |
| Table A9. News programmes and documentaries devoted to arts on the national terrestrial television channels (2002) | 721 |
| Table A10. Cultural programmes on the national terrestrial television channels (2002) | 722 |
| Table A11. Airtime devoted to politicians by national terrestrial television channels (2003) | 723 |
| Table A12. French local television stations | 724 |
| Table A13. Cable and satellite channels (by providers) | 725 |

List of Abbreviations

| | |
|-------|--|
| ART | Agency of Regulation of Telecommunications, <i>Agence de régulation des télécommunications</i> |
| BVP | Office for Monitoring Advertising, <i>Bureau de vérification de la publicité</i> |
| CNC | National Centre for Cinema, <i>Centre national du cinéma</i> |
| COSIP | Fund for Support of Programmes Industry, <i>Compte de soutien aux industries de programmes</i> |
| CSA | High Council for Broadcasting, <i>Conseil supérieur de l'audiovisuel</i> |
| DDM | Direction of Media Development, <i>Direction du développement des médias</i> |
| DTT | Digital Terrestrial Television |
| HCI | High Council for Integration, <i>Haut conseil à l'intégration</i> |
| INA | National Audiovisual Institute, <i>Institut national de l'audiovisuel</i> |
| ORTF | Office of French Radio and Television, <i>Office de la radio-télévision française</i> |
| SFP | <i>Société française de production</i> |
| SRA | <i>Le Service de la redevance audiovisuelle</i> |
| TDF | <i>Télédiffusion de France</i> |

1. EXECUTIVE SUMMARY

The history of French broadcasting and the evolution of French politics have been intertwined for the past half-century, and can be divided into three main periods. In the 1960s, known as the decade of State television, the country's political machinery exerted tight control over broadcasting. However, as of 1968, when advertising was allowed on television, French broadcasting entered an era of commercialised State television. In 1982 the State monopoly on broadcasting was abolished and in 1986 private players were allowed to enter the broadcasting market. Today, broadcasting is apparently a dual public-private system, but in reality, it is dominated by one single private company.

The regulation of French broadcasting is carried out by three main actors. The Government is in charge of designing broadcasting policies, drafting broadcasting laws and issuing decrees to implement these laws. Parliament's main mission is to pass broadcasting laws and control the funding of public broadcasters. Finally, the High Council for Broadcasting (CSA) is responsible for granting licences to private broadcasters, appointing the heads of public broadcasters, and supervising the programming of all broadcasters.

With most of its finance coming from licence fees, the French public service broadcaster is defined as the television of all the country's citizens and is assigned specific roles such as ensuring free expression for all political and social representatives of French society. French public service broadcasting consists of the television corporation France Télévisions, with three channels; the French-German ARTE channel; Radio France, which operates several radio networks; and several other smaller entities with technical or regional functions. However, although seen as the point of reference for the nation's broadcasting industry, public broadcasters are increasingly outplayed in popularity by commercial concerns and are managed more or less as private corporations. With the exception of France 5/ARTE, public broadcasting content is not very distinct from that of commercial broadcasters, which has created an identity crisis for public service broadcasting.

On the commercial television front, three national terrestrial channels are in competition. Each has a specific format. TF1 is a general-interest and family-oriented channel, M6 caters to young audiences and Canal+ is a Pay-TV channel focused on movies and football matches. The undisputed leader remains TF1, which has almost one third of the audience and half of the total television advertising revenues.

Besides specific programming obligations imposed on public and private broadcasters, all the broadcasting operators in France are subject to a large set of common regulations aimed at ensuring pluralism and diversity of opinions, protecting young audiences and limiting advertising on screen. One of these obligations, which distinguishes France from other European States, is represented by the provisions on programming quotas and restrictions, and on supporting the production of films and

other audiovisual works. The requirements in these provisions are intended to protect the French language and culture.

Commercial broadcasters are also subject to intricate cross-ownership rules. However, these do not prevent concentration of ownership and consolidation of large communication groups with numerous business lines, such as cable and satellite operations, television production or video publishing.

In terms of compliance with EU audiovisual regulation, some issues debated during the ongoing revision of the EU “Television without Frontiers” (TWF) Directive are sensitive for the French authorities. For example, French regulators fear that a loose definition of audiovisual works would make the system of quotas useless. They also want EU lawmakers to clearly determine the geographical scope of national broadcasting regulators, fearing that they will not be able to regulate some French broadcasts originating from abroad. The Government also advocates a clear recognition of public service broadcasting.

The implementation of new communication technologies is rather a difficult and slow process in France compared to some other European countries. An ambitious Government plan from 1982 to introduce new technologies has not been well implemented. Only 16 per cent of households currently subscribe to cable television, while satellite reception has developed only in recent years. Nonetheless, France has engaged in digital terrestrial television, starting in March 2005, and it is now available to 35 per cent of the population. Digitalisation is officially sponsored by the Government and the CSA, but its future remains unclear. The main reasons for this uncertainty are the lack of a comprehensive business plan for the introduction of digital broadcasting, the increasing competition from the Internet (ADSL) as a television medium, and the politics of French broadcasting.

2. CONTEXT

The history of the French broadcasting system can be broken down into three distinctive periods, closely linked to the evolution of French politics. After a period of tight political control during the 1960s (State television), French broadcasting was opened to advertising revenues after 1968, a move which began to change the logic of the system (commercialised State television). Following the end of the State monopoly on broadcasting in 1982, private broadcasters were allowed on the market and commercial concerns became dominant (market television). Nowadays, French broadcasting formally resembles a dual system equally divided into a public and a private sector, but it is practically dominated by one single private company.

2.1 Background

From the advent of television until the beginning of the 1970s, broadcasting was dominated by a public service ethos and an administrative logic.¹ Under the tight control of the Minister of Information, and then of Culture (and occasionally of Communication), broadcasting was run by a single body, the Office of French Radio and Television (*Office de la radio-télévision française* – ORTF). Entirely funded by licence fees until 1968, the ORTF enjoyed a triple monopoly: on signal transmission, programming and production. Its employees had a status equivalent to that of civil servants and private management methods were deeply mistrusted. Commercial broadcasting was rejected on the grounds that it would lead to lowbrow programming or inequalities among viewers.

During this first period, broadcasting was highly prescriptive. Television was viewed as an instrument to promote culture and education and was not supposed to cater to the tastes of the majority. As a consequence, there was little audience research and no accountability. The Government frequently used television to justify its policies and openly interfered with news content. From the Government's point of view, political control and cultural ambition went hand in hand. This conception was clearly expressed by President Georges Pompidou when he said in 1970 that television was "the voice of France" at home and abroad, meaning that television had to represent both the views of the legitimate Government and the cultural resources of the French nation.

A major change in the broadcasting system occurred in 1974, following the election of President Valéry Giscard d'Estaing. The decision was taken by the new Government to break the ORTF up into seven public companies:

- three television companies – TF1, Antenne 2 and FR3;
- one radio company – Radio-France;
- Télédiffusion de France – a company in charge of managing the technical process of broadcasting;
- Société française de production – a production company in charge of providing high cost programmes to broadcasters;
- Institut national de l'audiovisuel – entrusted with maintaining public broadcasters' archives of programmes, professional training of public broadcasters' employees and research in the field of new broadcasting technologies.

This reform was intended to bring greater variety and quality of programming, as well as political independence, by introducing competition among public broadcasters. It

¹ For additional details on the information presented in this sub-section, and another perspective, see: Bourdon Jérôme, *Haute-fidélité. Télévision et pouvoir 1935–1994*, (*High-fidelity. Television and power 1935–1994*), Paris, Le Seuil, 1994.

was also hoped that the specialisation of functions would reduce costs. While the 1974 reform did open the way for competition for advertising revenues and audiences among broadcasters, it did not increase their political independence. The Government maintained its right to appoint broadcast executives and still drew the line at private broadcasting. With the development of information technology and a direct broadcasting satellite project with Germany as one of the first efforts to counter US and Japanese hegemony, Giscard d'Estaing's presidency also launched France into new communications technologies.

The third period in French broadcasting began with the election of President François Mitterrand in 1981. When the Socialists came to power, it was expected that, in line with their electoral platform and their traditional opposition to private ownership of the airwaves, they would revive the old public service model of broadcasting. Ironically, however, economic difficulties and the international and European environments prompted the new Government to liberalise broadcasting. In 1981, local private FM radio stations were authorised. However, instead of the non-profit community stations dreamed of by Socialists, radio stations began to expand into commercial networks. Advertising, which was initially banned on local private radio stations, was allowed in 1984 under the joint pressure of economic lobbies and listeners.² In 1982, the Law on Audiovisual Communication abolished the State monopoly on broadcasting.³ In an attempt to set up a buffer between the Government and public television stations, the law also established an independent regulatory agency for broadcasting, the High Authority for Broadcasting (*Haute autorité de l'audiovisuel*),⁴ which was responsible for appointing the heads of public channels. In 1984, a licence for a Pay-TV channel was awarded to Canal+, the first private station in the history of French broadcasting.⁵ In 1986, a few weeks before the general elections, two more private television channels were granted licences by the Government.⁶

² In 1984, the radio station NRJ organized a huge demonstration in Paris with more than 100,000 teenagers opposing the ban on advertising and demanding "freedom for radio stations".

³ Law No. 82-652 of 29 July 1982 on Audiovisual Communication, *Official Gazette*, 30 July 1982, p. 2431, (hereafter, Law on Audiovisual Communication 1982).

⁴ Law on Audiovisual Communication 1982, ch. 2. See: Agnès Chauveau, *L'audiovisuel en liberté. Histoire de la Haute Autorité, (Free broadcasting. A history of the High Authority)*, Presses de Sciences-Po, Paris, 1997.

⁵ When talks about a fourth channel started in 1983, it was imagined as a cultural station providing access for social groups, minorities and non-profit organisations (a format similar to the British Channel 4, which, ironically, was launched at the same time under the Conservative Government of Margaret Thatcher). Instead, the French fourth channel developed an identity centred on sports and movies (including one adult movie each week).

⁶ The two stations were La5 and TV6. La5 was run by the Italian media mogul Silvio Berlusconi, and then bought by the French Lagardère media group. La5 went out of business in 1992. It should not be confused with La cinquième, the public channel set up in 1994. TV6 was replaced by M6.

The change of Government in March 1986 pushed the liberalisation of French broadcasting a step further. The Law on Freedom of Communication 1986 set up a general regulatory framework for a dual broadcasting system, in which private and public television stations coexisted. The responsibilities of the regulatory agency for broadcasting – first renamed the National Commission for Communication and Freedoms (*Commission nationale de la communication et des libertés*), then in 1989 the High Council for Broadcasting (*Conseil supérieur de l'audiovisuel* – CSA) – were broadened. In 1987, TF1 was privatised.

With the liberalisation of the production and transmission sectors, the broadcasting system has become a combination of four distinct marketplaces:⁷

- the marketplace for programmes – where broadcasters buy programmes from production companies;
- the marketplace for commercials – in which advertisers buy airtime from broadcasters;
- the delivery marketplace – in which broadcasters buy transmission capacities (cable, satellite or free-to-air) from infrastructure operators;
- the marketplace for television services – where viewers buy (in the form of subscriptions) programming services from broadcasters.

⁷ To which could be added the nascent market of by-products (DVD, books, brand marketing related to television programmes).

Table 1. The three periods of the French broadcasting system

| Model | 1959–1974 | 1974–1982 | 1982 – to present |
|--|--|--|--|
| | State television | Commercialised State television | Market television |
| Organisation | <p>ORTF as a single body for broadcasting</p> <p>Second channel: 1964 Third channel: 1969</p> | <p>Break-up of ORTF into 7 public companies: TF1, A2, FR3, Radio-France, SFP, TDF, INA</p> | <p>Establishment of a regulatory agency for broadcasting:</p> <ul style="list-style-type: none"> • Haute autorité (1982) • CNCL (1986) • CSA (1989) <p>Authorisation of private television stations:</p> <ul style="list-style-type: none"> • Canal+ (1984), • M6 (1986), • ARTE (1992) <p>Privatisation of:</p> <ul style="list-style-type: none"> • TF1 (1987), • TDF (2002) |
| Management | <p>Tight and direct political control of broadcasting by Government.</p> <p>ORTF is mainly financed by licence fees, but modest introduction of advertising in 1968.</p> | <p>Introduction of specialisation and competition within the public broadcasting system.</p> <p>Development of advertising revenues and consequently of audience research.</p> | <p>Growing competition in the broadcasting system, which now encompasses four main marketplaces:</p> <ul style="list-style-type: none"> • production • programming • advertising • delivery |
| Conception of broadcasting and viewers | <p>Normative definition of broadcasting as a public service. Viewers are citizens who are to be informed, educated, cultivated and entertained.</p> | <p>Television is not just a public service but also an industry. No clear conception of viewers, but more attention is given to audience ratings.</p> | <p>Television is an industry providing services. Viewers are sovereign consumers who buy television services. Yet, this industry must be regulated and public service obligations may apply in certain circumstances.</p> |

Source: compiled by Th. Vedel⁸

⁸ As in any chronological typology, the key dates (here those of major broadcasting laws) are just symbolic indicators of changes which had developed over many years and are linked to many factors (including technological, economic, social values) not just to politics.

2.2 Structure of the television sector

Metropolitan France is served by six national terrestrial channels,⁹ ten local terrestrial television stations and about 200 channels on cable and satellite (including 100 non-French speaking channels originating from European or foreign countries).

There are three channels operated by private companies. TF1 is a general interest and family oriented channel. M6 focuses on television series and music, targeting mainly viewers under 50 years old. Canal+ is a Pay-TV channel focusing on feature films and sports, with a subscriber base of around five million households.

The other three national channels are provided by public broadcasters. France 2 is a “generalist” channel. France 3, another general interest channel, also provides programmes and news on French regions through regional stations. France 5 only broadcasts from 15.00 to 19.00, focusing on education and knowledge, with the rest of the schedule left for ARTE, a cultural channel established by agreement between the French and German Governments in 1990.

Table 2. Audience share of the main television channels (2004)

| Channel | Audience share – viewers aged over four years old (per cent) |
|--------------------|--|
| TF1 | 31.8 |
| F2 | 20.5 |
| F3 | 15.2 |
| M6 | 12.5 |
| F5 ¹⁰ | 6.7 |
| C+ | 3.8 |
| Arte ¹⁰ | 3.7 |
| Others | 11.2 |

NB. The total is superior to 100 per cent because F5 and ARTE share the same channel.

Source: Médiamétrie¹¹

Some 95 per cent of the 25 million French households have a television set. Of these, 42 per cent have two or more television sets, a constantly increasing share which reflects a more individualistic pattern of viewing behaviour than in the early 1980s, when watching television was mostly a family activity. In addition, more than 3.5 million households subscribe to cable television and 3.6 million have satellite

⁹ One channel is shared by two broadcasters, France 5 and ARTE.

¹⁰ For F5 and ARTE, the audience share is based on the population with access to these channels.

¹¹ Information from the Médiamétrie website (www.mediametrie.fr).

television. In 2004, the average viewing time per individual was 204 minutes per day, versus 93 minutes in 1968, 124 minutes in 1980, and 193 minutes in 1995.¹² This dramatic increase is clearly related to the growing number of channels available.

Over the past ten years, the television sector has changed notably, with some major players giving up or shrinking their television business and others developing their activities in the field. In 1997, the private television sector was dominated by three companies:

- Bouygues: the main owner of TF1, owner of a 25 per cent stake in the satellite platform, TPS, owner of several cable channels;
- Suez: owner of M6, operator of cable systems and several cable channels, with a ten per cent share in the satellite platform, TPS;
- Vivendi: owner of the Canal+ Group, operator of cable and satellite systems and provider of a dozen cable channels.

Quite interestingly, the core activity of all these companies before entering the television business was public utilities. Part of the reason why these companies moved into the audiovisual sector was that they saw some similarity between managing public utilities and television or cable networks (see section 8.1).

Since 2003, Suez has given up most of its television activities. Its share in M6 has been sold to the RTL Group, the broadcasting arm of Bertelsmann, and its cable business (Noos) was taken over in May 2004 by the cable-operator UPC, a subsidiary of the US company Liberty Media. After the change of its CEO in 2002, Vivendi defined a new strategy concerning its communication activities. Canal+ Group, its main asset, has been refocused on the French market and its subsidiaries in Italy, Spain, Poland and Scandinavian countries were sold. Vivendi's television and movies production branch merged with NBC to form NBC Universal in 2004.

The development of digital broadcasting might allow some minor players who are currently active in cable or satellite, such as the Lagardère group, or newcomers such as NRJ group, to develop their television business (see section 8).

¹² Data from Centre d'étude d'opinion (CEO) until 1985, and Médiamétrie from 1985.

3. GENERAL BROADCASTING REGULATION AND STRUCTURES

The regulation of French broadcasting involves three main actors. The Government designs broadcasting policy, drafts broadcasting laws and issues decrees to implement these laws. Parliament passes broadcasting laws and controls the funding of public broadcasters. The High Council for Broadcasting (CSA) grants licences to private broadcasters, appoints the heads of public broadcasters, and oversees the programming activities of all broadcasters.

Before outlining the role and responsibilities of each actor in more detail, it is important to first clarify what the term “regulation” means – and does not mean – in the French context. Until the 1980s, the term regulation did not have exactly the same meaning in France as in English-speaking countries. French used to make a distinction between *réglementation* (the process of making laws and regulations) and *régulation* (the process of implementing laws and regulations as well as monitoring their implementation). While *réglementation* was under the sole responsibility of Parliament and the Government, *régulation* was exercised by public administrations in charge of monitoring different activities involving a number of operators. In those fields where public administrations were also operators (such as education, healthcare, railways and telecommunications) *régulation* was confused with the administration of public services. This was also the case with broadcasting, until the end of the State monopoly on television in 1982.

During the 1960s, television stations were considered a branch of the public administration responsible for providing the public service of broadcasting, in the same way that other administrations were providing public services such as education and healthcare. As such, public broadcasters were placed under the tight control of the Government and managed in a bureaucratic fashion. Employees of public broadcasters had a status similar to civil servants and their heads were appointed by the Council of Ministers. There was no regulation, or more exactly, regulation was equated with management of the public broadcasting service.

During the 1970s, public broadcasters gained some autonomy after they were transformed into public corporations. While this change contributed to a first separation between regulatory and operational activities, it did not relax Government control of public broadcasters.

As redefined by neo-liberals in the 1980s, regulation had two main functions – to mend the imperfections of the market (monopolies, negative externalities and outcomes contrary to moral or social standards), and to assure market actors that competition would remain fair and free. Although this recognises a regulatory role for the State, according to the neo-liberal perspective, regulation is best performed by independent regulatory agencies that can provide protection for competition against the State, as much as against abuse from within the market.

France followed much of the neo-liberal programme from 1982 on, although with a different rhetoric.¹³ With the authorisation of private broadcasters and the abolition of monopolies on production, programming and transmission activities, the broadcasting system has been gradually transformed into a market. To regulate this market, an independent regulatory agency was established.

3.1 Regulatory authorities for the television sector

The current regulatory framework for broadcasting was laid down by the Law on Freedom of Communication 1986, as modified and supplemented by numerous other laws, and completed by decrees.¹⁴ (See Table A1 in Annex 1.)

Broadcasting regulation involves three main actors. First, the Government, under the authority of the Prime Minister, designs the general policy for broadcasting and ancillary fields, drawing up laws and decrees (external consultation may be formal or informal). Broadcasting public policy involves several ministries, chiefly the Ministry of Culture and Communication, the Ministry of Finance and the Ministry of Industry (as far as telecommunications are concerned).¹⁵ There are also two specialised departments charged with gathering data and providing policy-makers with legal studies (commentaries on legislation and surveys). These are the Department of Media Development (*Direction du développement des médias* – DDM), under the Prime Minister, and the National Centre for Cinema (*Centre national du cinéma* – CNC), under the Ministry of Culture. Despite their modest size – in 2003, the DDM had 123 staff, of whom only 26 were responsible for broadcasting – these departments nonetheless produce substantial quantitative data and surveys.¹⁶

¹³ The body of neo-liberal ideas, principles and methods concerning the role of the State in the economy was developed by neo-liberal economists and political scientists at the beginning of the 1980s and inspired new public management policies implemented in many industrialised countries. Several participants at the OSI roundtable meeting disagreed with this analysis and stressed that French broadcasting, although now recognised as a business, is still a specific service. OSI roundtable comment, Paris, 29 November 2004, (hereafter, OSI roundtable comment). *Explanatory note: OSI held roundtable meetings in each country monitored to invite critique of its country reports in draft form. Experts present generally included representatives of the Government and of broadcasters, media practitioners, academics and NGOs. This final report takes into consideration their written and oral comments.*

¹⁴ Law No. 86-1067 of 30 September 1986 on Freedom of Communication, *Official Gazette*, 1 October 1986, p.11755, also known as Law Léotard, (hereafter, Law on Freedom of Communication 1986). Altogether, this law has been modified and supplemented by 36 other laws. This can be confusing for outsiders, since specialists may either refer to the initial law of 1986, as modified by subsequent laws, or to a specific law passed subsequently, modifying the 1986 law.

¹⁵ At different times, Culture and Communications have been placed under the responsibility of two different ministries.

¹⁶ The CNC also manages subsidies.

Second, Parliament passes laws on broadcasting. Under the French Constitution, laws must be general in scope. This means that broadcasting laws define only the basic principles, objectives and rules. Each year, Parliament must also agree upon the level of funding for public television and radio stations and, at a later stage, approve their financial statements. This process involves a couple of specialised Members of Parliament who report to their colleagues, making recommendations and expressing their opinions on the activities of broadcasters, including the private ones.¹⁷

Third, a number of regulatory agencies monitor the activities of broadcasters on a daily basis and enforce regulations. The CSA is the main regulatory agency for broadcasting. Other regulators include the Competition Council (*Conseil de la concurrence*), which monitors broadcasters' compliance with the country's laws on free and fair competition, and the Agency of Regulation of Telecommunications (*Agence de régulation des télécommunications – ART*), which regulates telecommunications operators and infrastructures. The ART indirectly touches upon broadcasting issues when it comes to cable or satellite operators or, now, Internet service providers which carry television services. In order to avoid overlapping responsibilities with the CSA, the Law on Electronic Communications and Services of Audiovisual Communications of 9 July 2004¹⁸ (hereafter, Law on Electronic Communications 2004) established a clearer division of responsibilities between the two agencies. Roughly, the CSA is responsible for content matters while the ART looks into conduct-related matters.

¹⁷ These reports are publicly available and are an extremely rich source of data. They have been used frequently in this chapter.

¹⁸ Law No. 2004-669 of 9 July 2004 on Electronic Communications and Services of Audiovisual Communications, *Official Gazette*, 10 July 2004, p. 12483.

Table 3. The roles of the Government, Parliament and the CSA in regulating broadcasters

| Concerned broadcasters | Government | Parliament | CSA |
|------------------------|--|--|--|
| All broadcasters | Draws up laws on broadcasting. Issues decrees necessary to implement laws. | Passes laws on broadcasting (limited to the missions and general organisation of broadcasting, including ownership and cross-ownership rules). | Oversees programming activities. Issues warnings and imposes sanctions. |
| Public broadcasters | Draws budgets for public broadcasters. Sets up their terms of reference as well as their objective contracts. | Passes laws stating the number and role of public broadcasters. Passes and oversees public broadcasters' budgets. | Appoints heads of public broadcasters. |
| Private broadcasters | No role <i>specifically</i> for private broadcasters | No role <i>specifically</i> for private broadcasters | Grants licences to private broadcasters. Sets up their contracts. |

3.1.1 The High Council for Broadcasting (CSA)

Responsibilities

Established in 1989,¹⁹ the High Council for Broadcasting, (*Conseil supérieur de l'audiovisuel* – CSA) is an independent administrative authority with four main responsibilities:

- granting licences to private television and radio stations;
- appointing the heads of public television and radio stations;
- monitoring television and radio programming;
- issuing opinions on government bills on broadcasting

The CSA grants broadcast licences to private television companies and radio stations. Public broadcasters are not licensed by the CSA as they are established by law. The CSA also manages the airwave spectrum for radio and television and allocates frequencies to broadcasters. It also authorises private radio and television services broadcast by satellite or cable. Television services that have been granted a licence in

¹⁹ Law No. 89-25 of 17 January 1989, modifying the Law of 30 September 1986, *Official Gazette*, 18 January 1989, p. 728.

another EU country are automatically allowed in France provided that they send a formal notice to the CSA.

The CSA appoints five members of the Board of Administration of several public radio and television stations, including the President of the Board, for a five-year mandate. These stations include Radio France, Radio France Internationale (RFI), and France Télévisions (France 2, France 3 and France 5, RFO). (See also Section 4.3.)

The CSA controls whether broadcasters comply with their programming obligations such as pluralism, mandated quotas and protection of youth (see section 3.3). This control is based on the daily monitoring of all terrestrial television programmes and on random observations of radio stations, cable and satellite services. Broadcasters have to report each year to the CSA on how they fulfilled their obligations. When broadcasters fail to fulfil their obligations or breach regulations, the CSA can implement a range of administrative sanctions or initiate an action in court.

The CSA may be requested by the Government to express opinions when a new broadcasting law or decree is to be passed.²⁰ It may also be requested by the Competition Council to offer information and express their opinions on anti-competitive practices and mergers in the broadcasting sector.

All the CSA's formal decisions and actions are made public. They are published in the official gazette (*Journal officiel*) and are available online on the CSA's website (www.csa.fr). Abstracts and summaries of CSA's activities are also published in its monthly newsletter (*La Lettre du CSA*).

In addition to these four main responsibilities, the CSA performs several other functions. It regularly carries out studies and surveys on various aspects of broadcasting. It exchanges views with similar regulatory agencies in other countries. During elections, the CSA sets up the rules for the electoral campaign on television and supervises the candidates' electoral broadcasts. It may also receive and process complaints from viewers concerning technical problems of reception. Finally, in accordance with the Law on Electronic Communications 2004, the CSA may arbitrate those conflicts between operators which concern how services are offered and marketed to the public, insofar as these would impinge on pluralism, fair competition, equality or equity among viewers.²¹

It is also important to underline that the CSA does not have jurisdiction over financial issues, meaning that it has no say on how public broadcasters are funded or on the financial strategy of private broadcasters. Thus, when the ownership of M6 changed in

²⁰ In practice, the CSA is systematically asked to comment on Government broadcasting bills.

²¹ Law on Electronic Communications 2004, art. 35. This provision was first established for digital services only, under the Law of 1 August 2000, in order to allow the CSA to control the marketing and technical distribution of digital services. Law No. 2000-719 of 1 August 2000, modifying the Law of 30 September 1986, *Official Gazette*, 2 August 2000, p. 11903, (hereafter, Law of 1 August 2000).

November 2003, the CSA could only remind the broadcaster of its obligations and commitments. While many people perceive the CSA as “the French FCC”, its jurisdiction is limited to broadcasting and does not cover telecommunications. This is obviously a problem when it comes to matters encompassing both telecommunications and broadcasting, such as cable or Internet services.

Table 4. The CSA’s powers and tools

| Nature of powers | Concerned areas (examples) |
|------------------------------------|---|
| Licensing | All private broadcasters |
| Establishing regulations | <ul style="list-style-type: none"> • Contracts with private broadcasters • Management of the frequency spectrum • Implementation of legal provisions (when matters are not specified by law) • Electoral campaigns on television and radio stations |
| Monitoring, investigation, inquiry | <ul style="list-style-type: none"> • Programming activities of broadcasters, financial statements |
| Sanctions | <ul style="list-style-type: none"> • Formal warnings • Fines • Licence withdrawal or reduction |
| Proposals, advice, observation | <ul style="list-style-type: none"> • Laws and decrees on broadcasting, before their passing by Parliament • French position in international negotiations |
| Requests to other authorities | <ul style="list-style-type: none"> • Courts in case of law violations • Fair trade commission |
| Reports, publications | <ul style="list-style-type: none"> • Broadcasters’ compliance with their obligations • Airtime devoted to political coverage |

Structure and organisation

The CSA is led by nine commissioners (*conseillers*), one of whom is the Chair (currently, Dominique Baudis). Three of the commissioners, including the Chair, are appointed by the President of the Republic, three by the President of the Senate, and three by the President of the National Assembly.²² The commissioners serve a six-year term. Mandates are staggered, with one third of the Council being renewed every two years. To reinforce their independence, the commissioners cannot be removed from office²³ or serve more than one term. They are also prohibited from holding any other office concurrently or having any other professional activity. If they fail to do so, they may be prosecuted.

²² This appointment scheme was modelled on the structure of the French Supreme Court (*Conseil constitutionnel*).

²³ The law does not say anything about how cases of grave misconduct from members of the CSA should be dealt with.

The commissioners hold weekly meetings and executive sessions (67 in 2003) in which they oversee the Council's activities. They are usually specialists, with a professional background in specific issues. The CSA's decisions and actions are prepared within specialised working groups chaired by a commissioner, where concerned parties may be invited for hearings. At the end of 2003, there were 14 working groups covering the following areas or issues:

- pluralism, information ethics and election campaigns;
- children's and teenagers' protection and programming ethics;
- economics, economic competition and European affairs;
- new broadcast media;
- television and radio programming;
- advertising and sponsorship;
- foreign international broadcasting and international relations;
- radio;
- national analogue terrestrial television;
- digital terrestrial television stations;
- cable and satellite;
- local television stations;
- overseas territories;
- reallocation of FM frequencies in 2006.

Under the commissioners there are eight departments (*directions*).

The Department of Administrative and Financial Affairs is in charge of human resources policy and draws up the CSA's budget. It appropriates funds and manages the facilities, services and equipment used by the CSA.

The Department of Broadcasting Operators deals with requests for licences and for access to the market from radio and television operators broadcasting via terrestrial waves, satellite or cable. It processes applications and prepares the Council's decisions. Along with the Department of Programmes, it monitors the agreements and the licences that have been granted.

The Department of Programmes studies and analyses the broadcast output. Its role is to check that broadcasters fulfil their obligations in terms of programming and production. It publishes monthly and annual reports – for example, on the amount of airtime devoted to politicians and trade union representatives by each television station, or on the compliance of broadcasters with their quota obligations. Along with the Department of Legal Affairs, it prepares recommendations relating to elections and election campaign broadcasts.

The Department of Technical Matters and New Communication Technologies is mainly a technical department. It deals with the allocation and uses of frequencies and advises the commissioners on technical issues such as digital television. Part of its staff comes from TDF, the (former) public company in charge of transmissions.

The Department of Legal Affairs conducts analyses of French laws and surveys European regulations related to broadcasting. It assists commissioners in the interpretation of laws and decrees. It also processes litigation cases. The Department of Studies and long-term development provides the commissioners with economic, financial and sociological data on the broadcasting sector. It undertakes or commissions studies on strategies and trends in broadcasting.

The Department of European and International Affairs is in charge of the CSA's relations with broadcasting regulatory bodies in other countries, foreign public authorities and European authorities. In 2003, it hosted 60 foreign delegations. In association with the Department of Legal Affairs, it monitors developments in EU regulation. The Department of Information and Documentation is in charge of the CSA's newsletter and website. It also publishes a number of reports and runs a resource centre open to the public.

In 2003, the CSA budget was €40 million, split between operating and equipment costs (€27 million) and salaries (about €13 million for a staff of 390 employees).²⁴

3.2 Licensing

Free-to-air commercial television licences are granted for a ten-year period, following a tender process and public hearings held by the CSA. Licences can be renewed twice for a five-year period without a new tender. Licences are issued or renewed based on an individual agreement between the CSA and the relevant broadcaster. This licensing contract contains the obligations placed upon the licensee and also the specific objectives that the licensee accepts. Some of these obligations are general and apply to all broadcasters. Others are adapted, taking into account the situation and capacities of each operator. For example, if a given operator cannot meet certain criteria laid down by law because of unfavourable market conditions, these criteria can be temporarily suspended or changed into other obligations. Conversely, the obligations may be increased when unexpected problems arise or when a broadcaster has chosen to follow a programming strategy that contradicts social standards.²⁵

²⁴ In 2003, the CSA's budget included a special endowment for the development of digital television. As a consequence, the CSA costs for 2004 will go down to €32.7 million. See: CSA, *Rapport d'activité 2003*, (*Activity Report 2003*), 20 April 2004, p. 193 and p. 195, (hereafter CSA, *Activity Report 2003*) available online at <http://www.csa.fr/upload/publication/rapport2003.pdf> (accessed 28 April 2005).

²⁵ For an example of the variety of obligations placed upon different broadcasters, see Tables A3 and Table A4, on production obligations (in Annex 1).

Table 5. Chronology of the licensing of private broadcasters

| | TF1 | Canal+ | M6 |
|---|---|--|--|
| First ten-year licence | Privatisation of the former public broadcaster TF1. Licence granted on 15 April 1987. | Public service concession granted for a 12-year period on 6 December 1983. Changed into regular licence by the Law of 1 February 1994. | Licence granted on 28 February 1987. |
| Five-year renewal | Licence renewed on 15 April 1997 with new licensing contract. | Licence renewed on 6 December 1995 with new licensing contract. | Licence renewed on 1 March 1997 with new licensing contract. |
| Five-year renewal upgraded to 10-year, if licensees provide terrestrial digital service | Licence renewed on 8 October 2001 for another five years (ten years if TF1 provides terrestrial digital service) with new licensing contract coming into force on 1 January 2002. | Licence renewed on 6 December 2000 for another five years (ten years if Canal Plus provides terrestrial digital service). | Licence renewed on 24 July 2001 for another five years (ten years if M6 provides terrestrial digital service) with new licensing contract coming into force on 1 January 2002. |

When awarding a licence to a television broadcaster, the CSA must take into account several criteria listed in Article 27 of the Law on Freedom of Communication 1986. As a general principle, the CSA must balance the potential interest of the applicant's project for the public, with two main objectives – the preservation of socio-cultural diversity and the preservation of competition within the broadcasting system.

In addition, the CSA must consider additional elements, including:

- the applicant's previous experience in communication activities;
- the applicant's business plan and financial participation in other media or advertising companies;
- the applicant's contribution to domestic audiovisual productions;
- the applicant's commitment to provide fair and diverse information and to guarantee editorial independence from shareholders (especially when these shareholders are party to public procurements).²⁶

It is difficult to foresee how the CSA will implement these provisions in future, when the current licences come to an end. When the first licences for private broadcasters

²⁶ This provision was added under the Law of 1 August 2000 and might present a problem in the future for TF1, since its parent company, Bouygues, is actively involved in public procurement (especially public buildings and infrastructure).

were awarded in 1987, it was under very specific political and economic circumstances. It was only for the TF1 licence that some competition took place. During the public hearings conducted at the time, two main criteria were officially announced as decisive: the financial capacity of the applicants and the cultural quality of their programming. If Bouygues, with no prior experience in broadcasting, was preferred to the Hachette group, a major player in print media, it probably was to prevent the latter gaining a dominant position in all media.

For FM radio stations, the CSA awards licences for an initial period of five years. The licence can then be renewed by the CSA for two additional periods of five years without a public call for bids. Once licensed, station operators are allocated frequencies on which they are allowed to broadcast. Frequency allocations are managed on a regional basis within 12 CTRs (Technical Centres for Radio). There are five categories of FM radio stations: non-profit local stations (category A), independent regional or local commercial stations (B), independent regional or local stations affiliated to a national network with a thematic content (C), commercial national networks with a thematic focus (D) and commercial national networks with general programming (E). As shown in below in Table 6, station operators receive more or fewer frequencies depending on their category.

Table 6. FM radio stations (as of 31 December 2003)

| | Category of radio station | | | | | Total |
|---------------------------------|---------------------------|-----|-----|-----|-----|-------|
| | A | B | C | D | E | |
| Number of licensees | 547 | 149 | 360 | 17 | 3 | 1,076 |
| Number of frequencies allocated | 874 | 511 | 665 | 970 | 492 | 3,512 |

Source: CSA²⁷

Companies providing broadcasting services on cable and satellite must sign a convention with the CSA, which details their commitments in terms of, for example, advertising, production investments, movies scheduling. Cable and satellite operators are exempted from signing this convention if they have already been licensed in another EU State, or if their annual revenues do not exceed €150,000.

3.3 Enforcement measures

The CSA is entitled to apply a set of enforcement measures. Depending on the type of violation, it may take one of the following actions (from the least to the most severe):

- Making recommendations, sending warnings or requests for immediate cessation of a minor violation.

²⁷ CSA, *Activity Report 2003*, p. 74.

- Imposing fines on television and radio stations that do not fulfil their obligations – for example, programming quotas and broadcasting forbidden commercials. The CSA may also oblige the station to broadcast a special announcement related to the violation.
- Licence suspension – which means prohibiting a television or radio station from airing all of its programmes or a specific programme for a limited period (maximum one month).
- Reducing the term of the licence – up to a maximum of one year.
- Revoking a broadcaster's licence – notably when there is a substantial change in the ownership, management or business model of a broadcaster, without the CSA being informed prior to the change.

The CSA can take these actions only after sending a formal notice to the concerned broadcaster and after holding a hearing with the defendant or any other interested party. The defendant can appeal to the Conseil d'Etat, the high court in charge of administrative litigation.

In practice, the CSA mainly sends warnings to, and imposes financial penalties on, television broadcasters.²⁸ In 2003, it issued 85 formal notices and imposed 22 penalties on broadcasters, mostly for breaches of advertising regulations. For example, on 11 February 2003 the CSA imposed a €50,000 fine on France 2 for repeated violations of advertising regulations. The CSA has not yet suspended, reduced or withdrawn a national television or radio licence. By contrast, the CSA does not hesitate to use the full range of its powers when it comes to local radio stations, which are less powerful actors in the broadcasting system. For instance, on 8 April 2003 the CSA decided to reduce by two months the licence of Radio Sun FM (located in the city of Lyon) for broadcasting an all-music programme without the news and cultural shows which were planned in the radio licence contract. On the same day, the licence of two other local radios (Cité Caps and FMT, both located in the north of France) were suspended for one day because these stations did not provide their annual reports and financial statements.

The CSA has adopted two distinct styles of regulation in the recent past, according to Monique Dagnaud who served as a CSA commissioner between 1991 and 1999.²⁹ Between 1989 and 1995, under its first chair, Jacques Boutet, a senior civil servant, the CSA strictly enforced the legal provisions laid down by law and followed a very administrative orientation. This led the CSA to issue many formal warnings and initiate sanctions procedures. Under its second chair, Hervé Bourges, a former

²⁸ Most of these are based on CSA's own monitoring. In some cases, the CSA also acts on complaints or reacts to public controversies (see section 4.5).

²⁹ Dagnaud Monique, *L'Etat et les médias. Fin de partie, (The State and the media. Endgame)*, Paris, Editions Odile Jacob, 2000, pp. 180–184.

broadcasting executive, the CSA became more of a political mediator, constantly negotiating arrangements and agreements with broadcasters to reach long-term objectives. Instead of the hierarchical regulation implemented during the first period, the CSA put in practice a sort of co-regulation in the second period. This is notably exemplified by the case of programmes with violence. Instead of imposing norms upon broadcasters, the CSA relied on codes of good conduct drawn up jointly with broadcasters.

After 15 years of activity, the CSA is now well established within the broadcasting regulatory framework. Yet, it is periodically the object of criticism from broadcasting professionals, journalists and experts, and more sporadically from the public or even from commissioners within its ranks.

The CSA's lack of political independence is often criticised by media experts. Because they are appointed by political authorities, or have previously been associated with the television industry, commissioners are suspected of lacking neutrality. This criticism arises especially when the CSA appoints the heads of public television stations. On such occasions, some believe that the CSA is merely "rubber-stamping" the Government's decisions. Others, however, defend a pragmatic approach, arguing that a CEO of any public broadcaster who has not been accepted by the Government cannot survive for long, especially when it comes to discussing budgets with the Government.³⁰

The CSA's insufficient powers are also pointed out by media observers, especially with respect to the television sector. However, from a legal point of view, the CSA has a wide range of enforcement measures at its disposal and could have a real impact on the functioning of the broadcasting sector. The real issue is the extent to which the CSA is able to exercise its powers, and chooses to use them.³¹ Private broadcasters have such substantial economic (and political) power that it is almost impossible for the CSA to consider suspending their licence or not renewing it. Such a decision has been referred to as "using the atomic bomb" because of the tremendous impact it would have on the economics of broadcasting.

Another criticism relates to the CSA's slowness in reacting to problems. It usually takes the CSA several months to make a decision. This is due both to insufficient staff, and to complicated and time-consuming legal procedures. At the end of 2003, France 3 and Canal+ broadcast programmes that were considered offensive to young viewers, but the CSA only sent those broadcasters formal warning letters in April 2004.³² This

³⁰ In December 1990, Philippe Guilhaume, Head of France Télévision who had been appointed by the CSA the previous year, decided to resign. In his resignation letter sent to the CSA, Guilhaume complained that part of the Government had not accepted his appointment by the CSA and, consequently, had multiplied obstacles to prevent him from doing his job. See: *Le Monde*, 21 December 1990.

³¹ OSI roundtable comment.

³² CSA, *La Lettre du CSA*, monthly newsletter, No. 173, May 2004, p. 8.

slowness in reacting does not encourage offending broadcasters to comply with regulations and commitments. Only when a programme raises a public debate – and, ironically, is put on the media agenda – does the CSA take immediate action.

Finally, the low participation of citizens in the CSA's decision-making has often been criticised. While all CSA decisions are made generally available to the public, citizens are rarely asked to contribute to the decision-making process. Most of the hearings conducted by the CSA are not public. As a result, broadcasting regulation is carried out almost entirely without the viewers, turning it into an expert battlefield where broadcasting executives, businesses, associations and Government officials negotiate with the CSA, sometimes on a daily basis. CSA officials explain that France has no fully-fledged organisation of viewers and that the few NGOs claiming this role are neither representative nor durable. They also claim or point out that it is the Government's job to foster, through the law, citizen participation. Another argument used to justify excluding viewers from deliberations on broadcasting regulation is that it is Parliament that best represents citizens (see Section 10).

3.4 Broadcasting independence

It was only in the early 1980s that public broadcasters gained real editorial independence from the Government. This process of emancipation, as it is often referred to by journalists, was slow and difficult. It began in 1969 when two competing units were set up within the public broadcasting system. This competition contributed to a more diversified coverage of social reality. During the 1970s, the growing importance of ratings in the television industry pushed the process further. As ratings were taken as the absolute benchmarks of success, anchors were in some way legitimised by their audience and could more easily resist pressures from politicians. Finally, journalists benefited from the establishment of the High Authority for Broadcasting in 1982, as a buffer between the Government and public broadcasters.³³

During the following years, broadcast journalists were eager to demonstrate their independence, a move that the political authorities could not oppose since they no longer controlled the management of broadcasters. This coincided with the arrival of a new generation of journalists, trained in journalism schools and more concerned about the standards of their profession.

Today, the independence of journalists is essentially a question of practice. Besides the principles stated in broadcasting legislation and in the broadcasters' contracts, there are no specific instruments to protect editorial independence. When journalists face pressures, they usually rely on their unions or professional organisations to fight for them. Another strategy is to publicise the pressures in other media and to appeal to public opinion.

³³ Now replaced by the CSA.

Over time, the relationship between journalists and political sources has developed as an exchange in which information is traded for coverage. Within this frame of cooperation, conflicts can occur, but they are contained through mutual adaptation.³⁴ Critics, notably the late Pierre Bourdieu and his followers, claim this relationship is so symbiotic that it turns into collusion.³⁵ Because they maintain close (at times personal) links and have been trained in the same schools, journalists and politicians share the same values and the same frames of interpretation. Together they contribute to diffuse a similar vision of the world which particularly excludes a fair representation of social movements, unions, and immigration issues. By contrast, undue prominence is given to other issues that suit the Government's agenda, such as the growing lack of security in France or the necessity to adapt to economic globalisation.

With respect to commercial broadcasters more specifically, there have been only a few cases of owners overtly and directly interfering with news. In December 1987, TF1's main owner, Francis Bouygues, cancelled a controversial show, *Droit de réponse* ("Right to Reply"), in which he was mocked. It has also been asserted that TF1 tends to give positive coverage of countries where its parent company has large contracts, such as Morocco.³⁶

Broadcast journalists benefit from the same protections as all other journalists. These include the possibility to quit with indemnities a media company in the event of a change of ownership. However, since there are only a few channels offering news in France, journalists do not have much choice.

Beside the general principles stated in – for public broadcasters – broadcasting legislation and the broadcasters' terms of reference (*cahiers de charges*) or licensing contract – for commercial broadcasters –, some broadcasters have implemented their own code of good practice or codes of ethics. (See sections 4.5 and 5.4.) It is the CSA's responsibility to maintain editorial standards in practice, either through recommendations, *post-facto* observations or formal warnings.

The coverage of the Iraq War provides a good example of the CSA's approach. In March 2003, just before the war started, the CSA called the attention of journalists to various issues, such as the necessity to correctly identify sources of information. Then, during the war, in light of the stories provided by broadcasters, the CSA issued other recommendations pertaining to the portrayal of prisoners and the broadcasting of

³⁴ B. Franklin, "A Good Day to Bury Bad News? Journalists, Sources and the Packaging of Politics", in S. Cottle (ed.), *News, Public Relations and Power*, London, Sage, 2003, p. 46–48.

³⁵ Pierre Bourdieu, *Sur la télévision, suivi de L'emprise du journalisme*, (On television, followed by *The influence of journalism*), Liber, Paris 1996; Serge Halimi, *Les nouveaux chiens de garde*, (*The new watchdog*), Liber/Raisons d'agir, Paris, 1997, (hereafter, Halimi, *The new watchdog*).

³⁶ Halimi, *The new watchdog*. This book, which subscribes to the thesis of collusion between media journalists and politicians, does not offer real evidence. In the case of Morocco, TF1 officials underline that they were first to cover the poor conditions of the penal colony in Tazmamart. OSI roundtable comment.

violent images. On a couple of occasions the CSA sent warning letters when these recommendations were not respected.³⁷

Among other ethical issues to which the CSA pays special attention are racism and anti-Semitism. While infractions of the law against racism³⁸ are very rare on television, the situation is more problematic on radio, where some radio stations air live call-in shows. Several times, callers managed to make racist or pornographic statements without being interrupted by the presenter. This has prompted the CSA to request the removal of the incriminating show or to temporarily suspend the radio licence.

However, in spite of the CSA's supervision, television programmes are the object of fierce criticism, mainly targeted at three trends in television programming.³⁹ The first is lack of diversity in news reporting. Journalists tend to cover the same stories in the same fashion, using the same sources and the same experts, developing the same arguments and making the same mistakes. Most of the time the headlines on TF1 and France 2 are almost identical, apart from minor differences such as the order of items in the newscast. This phenomenon, which has been described as a self-referential process in which outlets feed off each other, can be analysed as an unexpected effect of the competition between broadcasters. Because they seek to attract the same audience, news teams tend to provide the same content. When a media outlet breaks a story, all the others follow suit, driven by the fear of missing something important.

The second trend is a tendency towards sensationalism and voyeurism. In autumn 2003, media coverage of what is known as the "Affaire Alègre" provided a good example of such bad practices.⁴⁰ In a sort of race for breaking news, journalists came up with horror-provoking revelations from unreliable witnesses who later admitted inventing stories because "they pleased the media". In this complex affair, it seems that some journalists seriously infringed ethical principles. They provided financial

³⁷ CSA, *Activity Report 2003*, pp. 82–83.

³⁸ In France, there is no freedom of speech for racist or anti-Semitic opinions, and making racist statements in any public form is punishable by law. Law No. 90-615 of 13 July 1990, aiming at repressing any racist, anti-Semitic or xenophobic act (known as the Gayssot Law).

³⁹ Here follow the main criticisms of French media as articulated by Pierre Bourdieu and his followers. For another perspective, see Jean-Marie Charon, *Réflexions et propositions sur la déontologie de l'information. Rapport à Madame la Ministre de la Culture et de la Communication*, (*Reflections and proposals on the deontology of information. Report for Mrs the Minister of Culture and Communication*), Paris, 1999. For a critical review of this criticism, see: Cyril Lemieux, *Mauvaise presse: une sociologie compréhensive du travail journalistique et de ses critiques (Bad Press: a comprehensive sociology of journalism and of its criticism)*, Editions Métailié, Paris, 2000.

⁴⁰ A convicted murderer of several women, Alègre incriminated a number of politicians (including the head of the CSA). Alègre alleged that the politicians had joined him in sadomasochistic parties to kill women and children. Prostitutes confirmed Alègre's declarations, then retracted them. See: Mathieu Aron and Marie-France Etchegoin, *Le bûcher de Toulouse d'Alègre à Baudis: histoire d'une mystification*, (*The Bonfire of Toulouse from Alègre to Baudis: history of a mystification*), Grasset, Paris, 2005.

assistance to witnesses, and did not respect the presumption of innocence recognised by law to incriminated persons or check information with concerned parties.⁴¹

The third trend in television programming is a skew toward governmental and corporate agendas.⁴² During the Gulf war in 1990 and the Kosovo conflict of 1999, many French journalists replicated military sources without questioning their consistency and without taking other perspectives into account.⁴³ In a separate case, during the long strike of winter 1995, the media were criticised by union members for not reporting the reality of workers.⁴⁴ More generally, broadcasters have been criticised for covering strikes and social movements by focusing on the inconvenience and costs they produce, without investigating their deeper causes.⁴⁵ It has also been noted that broadcasters, primarily TF1, devoted more attention than usual to criminal stories and violent situations right after the security issue was put at the top of the Government's agenda in July 2001.⁴⁶

4. REGULATION AND MANAGEMENT OF PUBLIC SERVICE BROADCASTING

Mostly funded by licence fees, the public broadcasting system comprises two main entities – France Télévisions, which runs three national television channels, and Radio France, which operates several radio networks. To these must be added a number of smaller and more specialised corporations. Defined as the “television of all citizens” and generally regarded as the reference point for broadcasting, France Télévisions is assigned specific missions, notably to ensure the expression of all political and social

⁴¹ Francis Szpiner, “Cloués au pilori médiatique”, (“Sentenced by media”), in *Le Monde*, 2 October 2003.

⁴² Yet, some conservative MPs complain about television journalists being prone to give preferential treatment to leftist perspectives.

⁴³ This was most apparent in the overuse of certain technical expressions such as “surgical strikes”. Documented by several studies, the poor performance of the French media during the Gulf War has contributed to a self-criticism among journalists and resulted in much more careful coverage of the Iraq war in 2003. (The fact that France was a critic of this war, not a belligerent in it, certainly helped too.) See: Mathien Michel (ed.), *L'information dans les conflits armés: du Golfe au Kosovo*, (*Information during armed conflicts: from the Gulf to Kosovo*), L'Harmattan, Paris, 2001.

⁴⁴ For a short overview of this criticism, see: “Les medias face au mouvement social de fin 1995”, (“Media and the social movement of 1995”), on the website of Acrimed (an independent media organisation) available at <http://www.acrimed.org/article339.html> (accessed 22 July 2005).

⁴⁵ For an in-depth analysis of the relationship between media and social movements, see: Neveu Erick, “Médias, mouvements sociaux, espaces publics”, (“Media, social movements, public spheres”), in *Réseaux*, vol. 17, No. 98, 1999, pp. 17–85.

⁴⁶ Amalou Florence, “La télévision a accru sa couverture de la violence durant la campagne”, (“TV increased coverage of violence during the presidential campaign”), in *Le Monde*, 27 May 2002.

forces within French society. Beyond the rhetoric of public service, however, public broadcasters are increasingly dominated by commercial concerns and managed as private corporations. With the exception of France 5 and ARTE, their programming is quite similar to that of commercial broadcasters.

4.1 The public broadcasting sector

In France, as in many European countries, public service broadcasting has been shaped by “an ethic of comprehensiveness”.⁴⁷ Public broadcasters embrace such multiple goals as to provide information, education and entertainment. They offer a wide range and diversity of programmes, from quality to popular, trying to cater to all interests and tastes.

This conception of comprehensiveness is explicit in French law. The obligations assigned to public broadcasters are as follows,

The public broadcasters must serve the public interest and are in charge of fulfilling public service missions. They must provide the public, taken in all its components [diversity], with a set of programmes and services characterised by diversity and pluralism, quality and innovation, respect for people’s rights and democratic principles as defined by the constitution.

They must supply a wide range and diversity of programmes, covering the areas of news, culture, knowledge, entertainment and sports. They must contribute to the democratic debate within French society as well as to the social inclusion of citizens. They must ensure the promotion of the French language and reflect the diversity of cultural heritage in its regional and local dimensions. They must contribute to the development and diffusion of ideas and arts. They must also spread civic, economic, social and scientific knowledge and contribute to media literacy.

They have to ensure that the deaf and people who are hard of hearing can access their programmes.

Public broadcasters must provide honest, independent and pluralist news and contribute to the pluralist expression of social and political forces on an equal basis and according to the recommendations issued by the CSA.

Finally, public broadcasters must take part in French external audiovisual policies and contribute to the diffusion of French language and culture abroad. They must develop new technologies and services in order to continuously enrich their programmes.⁴⁸

The public broadcasting sector is currently composed of five different entities – France Télévisions, Radio France, RFI, INA, ARTE.

⁴⁷ Jay G. Blumler, “The British approach to public service broadcasting”, in Avery Robert K. (ed.). *Public Broadcasting Service in a Multichannel Environment*, London, Longman, 1993, p. 3.

⁴⁸ Article 43-11 of the Law of on Freedom of Communication 1986. This article has been translated extensively in order to show the wide range of missions assigned to public broadcasters, but also their patchwork aspect (due to the different layers of laws).

France Télévisions

The French public television station, France Télévisions, was established by the Law on Freedom of Communication 2000. It provides three national television channels: France 2, France 3 and France 5.⁴⁹ Also part of France Télévisions are Radio France Outremer (RFO), which operates public television and radio stations in the French departments outside metropolitan France, and several thematic channels transmitted via cable and satellite.

Created in 1964 under the name Antenne2, France 2 is a general interest channel offering a wide variety of programmes, including four daily newscasts, serials, feature films, current affairs, sports, entertainment and talk-shows. It is the public channel that competes most closely with commercial TF1.

France 3 was founded in 1969 under the name FR3 and focuses both on national and regional issues. During the day, it broadcasts regional and local news bulletins and programmes produced by 13 regional directorates and 37 local bureaus. There is coordination and cooperation between France 2 and France 3 in broadcasting some lengthy programmes such as the Roland Garros tennis tournament, some stages of the Tour de France or the Olympic Games. Such events can be broadcast in their entirety using both channels.

France 5 was established in December 1994 under the name La Cinquième. It was renamed France 5 in 2002. France 5 is an educational channel devoted to “education, training and employment”, airings educational and cultural programmes and documentaries. It shares the frequency with the ARTE channel, broadcasting when ARTE is off air, from 06.00 until 19.00. France 5 aims to appeal particularly to schools and young citizens.

Radio France

Radio France runs several national networks of radio stations, including Radio-France (general interest programming), France Info (all-news station), France Musique (classical music), France Culture (cultural events), Radio Bleue (focused on senior citizens), plus a couple of all-music stations in some cities (such as France Inter Paris, better known as FIP in the capital city). Because of their specialised focus and of the absence of commercials, these radio stations sound very different from commercial radios.

⁴⁹ Before 2000, the three channels were operated by autonomous public companies. Their unification under a single management is intended to reinforce their coordination and to generate economies of scale. It is the result of a long process that began in 1989 when Antenne2 and FR3 were placed under the authority of one single chair. Then, in 1992, Antenne2 and FR3 changed their names respectively to France 2 and France 3 and, although remaining legally independent, were grouped in the same entity, France Télévisions.

RFI

Radio France International (RFI) is a radio station broadcasting abroad, with a special focus on Africa.

INA

Apart from the programming companies, the public broadcasting system comprises the National Audiovisual Institute (*Institut national de l'audiovisuel* – INA), which is responsible for managing France's television archives, professional training and research on new technologies. The INA runs the *Inathèque*, which began operating on 1 January 1995. It conserves and makes available for research French television and radio archives. Academics and doctoral students can study and analyse programmes, using computer and multimedia tools allowing analysis of television archive material, frame by frame.

ARTE

The television station ARTE has a very special position in the public broadcasting system. It was established by a Franco-German treaty of 2 October 1990. Because of its bi-national status, ARTE does not fall under the jurisdiction of the CSA. Therefore, it does not need to comply with the general programming obligations applying to other broadcasters.⁵⁰ Its Chair is appointed jointly by the French and German governments. ARTE runs a central servicing organisation located in Strasbourg, which is funded by the French and German Governments, and two programming branches (ARTE France and a consortium formed by the German public broadcasters), which are financed by licence fees.

ARTE is broadcast in France on the fifth channel only from 19.00 through to 03.00,⁵¹ with France 5 filling the rest of the schedule. It offers high-quality cultural content, with news programmes and “thematic” evenings hosting films, documentaries and talk-shows on the same topic. Initially designed as the first step toward a European channel, and despite cooperation agreements with seven public channels in Europe, ARTE has remained a French-German station attracting a modest audience.⁵²

In the last two decades, two companies were split from the public broadcasting system, Société française de production (SFP) and Télédiffusion de France (TDF).

SFP was the result of the ORTF's break-up in 1974 and managed large production equipment. However, it experienced growing losses as fierce competition developed in

⁵⁰ This allows, for example, ARTE to broadcast prime-time movies not suitable for viewers under 16 years of age. Yet, ARTE management states that the station usually follows the guidelines set up by the CSA (for instance no movie broadcasts on Saturdays). Written memo received from ARTE, commenting on this report in its draft form.

⁵¹ From 15.00 through to 03.00 on the new digital network.

⁵² According to representatives of ARTE, 30 per cent of ARTE's programming comes from European countries other than France and Germany, and ten per cent from outside Europe. In addition, ARTE's European partners are associated to the decision making. OSI roundtable comment.

the sector from the mid-1980s, and it has therefore been restructured several times. Unlike the SFP, which maintained a highly qualified permanent staff, its competitors are more flexible. They are often small companies created for a specific venture and closed when the production is over, which allows them to pass the costs of welfare for their employees to State unemployment insurance.⁵³ The SFP, which continues to specialise in the production of big events such as the Olympics Games, was sold to a private group, the Euro Média Télévision Group, associated with Bolloré Group, in 2001.

TDF was established in 1975 as a public corporation responsible for operating and maintaining the transmitter network. In 1991 TDF became a subsidiary of France Télécom, the national telecommunications operator. In 2002 it was sold to a private consortium of French and British companies. The transmission of television signals has long been considered a public service in France and was subject to State monopoly until the introduction of the Law on Freedom of Communication 1986, which allowed competition, but only for the transmission of private television broadcasts.

Relying on the very dense network of transmitters that it developed over time to ensure the complete coverage of French territory, TDF has been able to maintain a *de facto* monopoly on transmission. Yet, this situation has resulted in high costs for television broadcasters, especially public ones, which spent €162 million on transmission in 2003.⁵⁴ In accordance with the Law on the Public Service Obligations of Telecommunications and France Télécom 2003,⁵⁵ the transmission market is now fully open to competition and some public broadcasters might consider shifting to a new transmission operator. Reportedly, Radio France is willing to contract with towerCast, a subsidiary of NRJ group and the main competitor of TDF.

4.2 Funding

Public television and radio stations have two main sources of income – licence fees and advertising. In addition, they sometimes receive special State subsidies or endowments to pursue specific goals. They can, for example, receive money from the Ministry of Foreign Affairs for disseminating French television programmes abroad. Also, State aid to speed up restructuring, to support the development of new technologies or as

⁵³ Employees working for show business, cultural and audiovisual companies have a special statute in France. Because they only work part of the year, they can benefit from social welfare with shorter working hours than other employees. Since June 2003, the Government has been trying to change this statute, something which raised a strong social movement during summer 2003 and resulted in the cancellation of several festivals, including the Music Festival of Aix-en-Provence and many performances at the Theatre Festival of Avignon.

⁵⁴ France Télévisions has regularly complained that, being forced to use TDF networks, it did not get the same rates as private broadcasters who, having in theory the possibility to use alternative operators, can put pressure on TDF to obtain lower rates.

⁵⁵ Law No. 2003-1365 of 31 December 2003 on the Public Service Obligations of Telecommunications and France Télécom, *Official Gazette*, 1 January 2004, p. 9.

compensation for the costs and constraints placed upon them – such as exemptions from the licence fee.⁵⁶

The process of funding public service broadcasting is long and intricate. Each year, it starts in July, when the budgets for the public stations are drafted jointly by the Ministry of Communication and the Ministry of Finance. The Prime Minister must approve the budgets before they go for approval to Parliament, in November. Parliament not only decides on the amount of funding, including the advertising revenue which the broadcasters are expected to receive, but it also sets up the expenditures and their spending on salaries, investments or other activities. As a result, the public broadcasters have little control over their financing and spending. They depend on anticipations or options made by politicians, which might turn out to be unrealistic or contrary to market trends. In addition, this process constrains their staff by forcing them to spend a lot of time and energy in administrative meetings and various lobbying activities, rather than concentrating on programming strategies.⁵⁷

In order to avoid the financial uncertainties resulting from this process, the Law of 1 August 2000 introduced the principle of pluri-annual contracts between the Government and the public broadcasters – referred to as “objectives and means contracts”.⁵⁸ With these contracts, the Government established a scheme for allocation of funding over a three to five-year period, on the condition that the public broadcaster commits itself to specific objectives, including innovation and diversity of programming. These contracts are an attempt to anticipate the development costs of the public broadcasters as well as their potential resources, and to ensure the provision of the necessary funding. While giving public broadcasters some visibility to engage in mid-term projects, these contracts still do not remove the obligation for them to have their budgets passed by Parliament every year.

4.2.1 Licence fees

The level of the licence fee is set annually by Parliament when approving the overall budget for public broadcasting companies. As shown below in Table 7, it has increased by 38 per cent since 1990, against a 25 per cent increase in the general cost of living. Yet, the licence fee is still lower in France than in many other European countries.

⁵⁶ The State gives to the public service broadcasters the equivalent of what the licence fees exemptees would have paid. In 2003, €449 million was granted by the State to public service broadcasters as compensation for licence fee exemptions.

⁵⁷ This process is part of the democratic control of the public service of broadcasting and is necessary as it allows the “legitimate public authorities” to set up the general strategy for public television. OSI roundtable comment.

⁵⁸ Article 53 of the Law on Freedom of Communication 1986, as modified by Article 15 of the Law of 1 August 2000. The current “Objectives and Means Contract” is available (in French) at http://www.francetelevisions.fr/data/doc/synthese_com.pdf (accessed 6 August 2005), (hereafter, France Télévisions, *Objectives and Means Contract*).

Table 7. Licence fee (1985–2004)

| | 1985 | 1990 | 1995 | 2000 | 2004 |
|-----------------|-------|-------|--------|--------|--------|
| Licence fee (€) | 82.65 | 84.15 | 102.14 | 114.49 | 116.50 |

Source: Commission des finances⁵⁹

Various categories of people are exempted from the fee. These are senior citizens over 65 years of age with low income (who in 2002 represented 3.35 million households) and people with disabilities (about 700,000 households). In addition, 1.5–3.0 million households do not pay the licence fee because they (illegally) do not register as television users.

Until 2005, licence fees were collected by a special unit, Le Service de la redevance audiovisuelle (SRA), subordinated to the Ministry of Finance, which employed around 1,400 people. Its total costs in 2002 were €73.5 million.⁶⁰ The cost and efficiency of this unit had been a recurrent issue in media debates. Contrary to some other European countries, SRA agents were not allowed to enter private homes to verify the possession of a television set. Moreover, the SRA could not do any cross-checking by using listings owned by other public administrations, or by Pay-TV channels or cable operators. To resolve the problem of deliberate non-payment, without increasing the costs of control, the licence fee has been attached to local taxes since January 2005.

Table 8. Share of licence fee revenue in the revenue of the public broadcasters (2002)

| | Total revenues (€ million) | Licence Fee (per cent) |
|--------------------|-------------------------------|---------------------------|
| France Télévisions | 2,161 | 72.05 |
| Radio France | 499.3 | 95.05 |
| RFO | 223.4 | 93.77 |
| ARTE France | 192.6 | 100 |
| RFI | 126.8 | 99.13 |
| INA | 100.6 | 100 |

Source: DDM⁶¹

Apart from questions about the ideal rate of the licence fee and how to collect it efficiently, this source of funding faces a more profound problem. A growing number

⁵⁹ Gilles Carrez, *Rapport de la Commission des finances sur le projet de loi de finances pour 2003 (Communication)*, p. 18, (hereafter, Carrez, *Communication*).

⁶⁰ However, the collection costs have been reduced sharply, from 4.85 per cent in 1991 to 3.53 per cent of the total of licence fee revenues in 2001. Carrez, *Communication*, p. 24.

⁶¹ Direction du développement des médias (DDM), 2003, information from the DDM website, available at <http://www.ddm.gouv.fr> (accessed 14 August 2005)

of viewers have only known television as a mix of programmes and commercials and now have access to “free” cultural resources through the Internet. It seems that a significant part of the viewers do not understand why they should pay for watching television. They question not only how the licence fee is set up and spent, but also its *raison d'être*. Statements like “I never watch public television stations, so why should I pay for them?” or “Private and public television stations provide the same stuff, so why should I pay for the public ones while the private ones are free of charge?” are quite common among younger viewers.⁶² More than just dissatisfaction with the content of public television stations, they probably express a growing perception of television as a service that sovereign consumers should decide to purchase or not.

4.2.2 Advertising revenues

Advertising was introduced on French public television in October 1968. Initially, it was allowed in a tiny dose, only two minutes a day. As the income generated by the licence fees stagnated, public broadcasters increasingly resorted to advertising revenues, first to maintain their development during the 1970s, then to fight the mounting competition from private broadcasters in the late 1980s.⁶³

Ironically, public broadcasters’ executives at the time encouraged the increase in advertising. One reason for this was that, advertising was inaccurately perceived as a means of reaching beyond the financial limitations placed upon them by Parliament. Advertising also stimulated audience research, which public broadcasting was not using at the time, enabling the executives of public service broadcasters to know more about the demands and needs of people. Finally, the introduction of advertising on public television helped develop a more complex broadcasting system and changed the politics of broadcasting, from a face-to-face accountability system to a triangle system. Being accountable not only to public authorities, but also to advertisers – and through them, it was thought, to viewers – executives of the public service broadcasters could develop more complex strategies.

In the 1990s, a number of French intellectuals called for a ban on all advertising revenues on public stations to release them from dependency on ratings and commercial interests and let them focus on quality programming. They recommended covering the loss of advertising revenue through a tax on additional advertising revenues going to private television stations.

⁶² This was quite apparent in a survey that the Paris-based Centre for Political Research disseminated among young Internet users in 2004. Several reports by Members of Parliament, notably Senator Jean Cluzel and Deputy Patrice Martin-Lalande, have documented the “legitimacy crisis” of the licence fee. On several occasions, Marc Teissier, the former chairman of France Télévisions, took part in television shows to explain why the licence fee was necessary and how it was used.

⁶³ Stagnation of revenues from licence fees was caused, first, by the fact that all French households now have television sets (which meant no more marginal growth of licence fee revenues) and then by Parliament’s reluctance to increase the amount of the licence fee for two decades.

Advertising regulations for public television differ from commercial television in two respects. First, commercial breaks are not allowed during feature films on public television. Second, the Law of 1 August 2000 gradually limited advertising on public stations during peak hours to eight minutes per hour (as of 2002), versus 12 minutes previously. This move was intended to avert an all-out fight for audiences with the commercial television stations, which it was believed would be detrimental to the quality of public television's programmes.⁶⁴ Nonetheless, it resulted in a steep decline in France Télévisions' advertising revenue. In 2004, advertising revenues represented 29.3 per cent of the station's total revenues, down from 38.75 per cent in 1998.⁶⁵

Advertising is a minor source of income for public radio stations. It represented less than five per cent of the total revenues of the entire Radio France group in 2002. Only a few minutes of commercials are aired every day on public radio, usually just before the hourly newscasts. This makes public radio stations sound very distinctive.

4.3 Governance structure

France Télévisions is managed by an Administrative Board, whose main task is to approve the broadcaster's strategies. However, in practice, this Board is hardly involved in daily management. The Board has 14 members, serving a five-year term:⁶⁶

- two Members of Parliament – one appointed by the National Assembly and one by the Senate;
- five State officers (high civil servants) appointed by the Government;
- five qualified personalities appointed by the CSA – one of whom must come from an NGO, one from the French overseas territories and another from the television or film industry;⁶⁷

⁶⁴ While the impact of this limitation on programming strategies remains to be assessed, it clearly resulted in substantial additional revenues for commercial television stations: these were estimated at €123 million for TF1, €99 million for M6, and €17 million for Canal+. National Assembly, *Avis n° 3321 sur le projet de loi de finances pour 2002 (Communication)*, by Didier Mathus.

⁶⁵ National Assembly, *Rapport n° 1110 sur le projet de loi de finances pour 2004 (Communication)*, by Patrice Martin-Lalande.

⁶⁶ Article 47-1 of the Law on Freedom of Communication 1986, as modified by the Law of 9 July 2004 (Law on Electronic Communications). Before 2004, the Administrative Board had 12 members.

⁶⁷ These are currently: Marc Teyssier, Chair of the Board, and a former senior civil servant (to be replaced from September 2005 by Patrick de Carolis, a journalist and TV producer, appointed by the CSA in June 2005); Constantin Costa-Gavras, a film director; Dominique Wolton, an academic who has published numerous studies on television; Henriette Dorion-Sebeloue, chair of the Association of French Guyana people; and Rony Brauman, chair of an NGO dealing with social exclusion-related issues.

- two members elected by the staff of France Télévisions.⁶⁸

There are similar boards for the other broadcasting companies. The only difference is that there is no requirement for a representative of NGOs on those boards.

The Administrative Board of France Télévisions is in some ways similar to a company's board where the main shareholders are represented. The actual role of members depends much on its Chair's willingness and is very limited in practice. The presence of a representative of viewers is not mandatory on any of these boards. There is little, if any, representation of viewers and citizens in the governance structures of public broadcasting. Although France Télévisions officially states that "viewers are at the heart of the public service apparatus",⁶⁹ this commitment is insufficiently reflected in reality.

Three Ombudsman offices were established at France Télévisions in 1998. Their main task is to receive and answer complaints from viewers. One of the Ombudsmen deals with the problems linked to the general programming of the group France Télévisions. The other two are in charge of the newscasts of France 2 and France 3. Their recommendations may be published on France Télévisions' website. They also host a 20-minute weekly show every Saturday after the 13.00 news on France 2 and a monthly show on Sundays on France 3. However, these Ombudsmen have no sanctioning powers.

In addition, France 5 hosts a weekly show, *Arrêt sur image* ("Pause on image"), in which journalists and media experts analyse how the media in general cover the news. This show has become an excellent forum for discussing media performance, although it tends to overemphasise ideological biases and minimise organisational constraints.

Finally, France Télévisions runs a "barometer" to measure viewers' satisfaction with programmes. However, neither its methodology nor its content have been made public – they are not even known by the station's employees.⁷⁰ In addition, the barometer has been criticised by Members of Parliaments for being too global, based on retrospective surveys and too quantitative.

In 2000, an Advisory Board for Programming was established by law.⁷¹ The Board is to be composed of 20 individuals randomly chosen from among all television viewers, with the main task of making recommendations on television programmes and should meet twice a year. However, unfortunately, the decree needed for implementing this provision is still under preparation and the Board has never met.

⁶⁸ Law No. 83-675 of 26 July 1983 for the democratisation of the public sector.

⁶⁹ France Télévision's website (www.francetelevisions.fr).

⁷⁰ OSI roundtable comment.

⁷¹ Law of 1 August 2000.

4.4 Programming framework

In addition to the general programming obligations applying to all television broadcasters (see section 6), public television and radio stations have specific obligations, which are stated in their terms of references (*cahier des charges*). These can be divided into three categories – the public service mission, the expression of political, social and religious forces, and requirements for cultural programmes.

4.4.1 Public service mission

Public broadcasters must air general interest messages, such as health and road safety information, programmes to inform consumers about their rights (ten minutes per week in primetime on France 2 and four minutes per week in primetime on France 3), and programmes aimed at integrating foreign residents. Public broadcasters are also required to take part in public welfare campaigns by providing free airtime to organisations designated by the Government to be in charge of defending an issue of national interest.⁷²

Public broadcasters may also be required by the Government to broadcast at any time any official declarations or messages of the Government to the French people, as stated in the Law on Freedom of Communication 1986. Such broadcasts must be clearly identified as emanating from the Government and a right of reply must be given to the opposition in Parliament. The President of the Republic takes this opportunity, especially on New Year's Eve, to air his message to the nation, and sometimes before election days or on more dramatic occasions, such as France entering the first Iraq war.

Usually, however, Government officials prefer to publicise their statements in regular newscasts or political talk-shows where they are interviewed by journalists. Such formats, being livelier and less prone to be viewed as propaganda, are considered more efficient in disseminating ideas and opinions.⁷³ Usually, broadcasters see no problem in inviting Government officials to their regular programmes as long as they can comply with their obligation to defend pluralism of opinions.⁷⁴ When the President of Republic, the Prime Minister or a very popular minister is invited, broadcasters

⁷² Each year, a national “cause” is chosen by the Government. In 2005, it is the action against AIDS. In 2004, it was the promotion of fraternity, and in 2003, the integration of people with disabilities.

⁷³ More generally, French politicians are increasingly getting into news management by systematically feeding ideas, events and pictures opportunities to journalists.

⁷⁴ See section 3.2.

generally accept to draft with them the structure and the list of participants who are to join the debate.⁷⁵

Another public service requirement, the continuity of service in case of strikes, is more controversial, mainly because strikes are not unusual in French public broadcasting (see Table 9, below). The public service broadcasters regularly experience strikes, which are usually linked to salary claims, work or social discrepancies among the different public stations or the discontent of employees and journalists with the restructuring of public companies.⁷⁶ Strikes often take place in the autumn when the budgets for public broadcasting are discussed in Parliament.

Table 9. Major strikes in public broadcasting (since 1990)

| 19-24 February 1990 | All public stations (salaries) |
|------------------------------|--|
| December 1990 (23 days) | Strike in France 3's regional bureaus |
| 11-12 June 1992 | All public companies |
| 11-27 October 1994 | Radio France strike (no news editions) |
| 22-29 June 1995 | TDF and SFP administrative and technical employees |
| 16-24 November 1999 | All public stations (organisation of stations, working time) |
| 18 January – 6 February 2001 | Strike at SFP |
| 13-19 November 2002 | All public broadcasters |
| January-February 2004 | Three-week strike on Radio-France (no news bulletins) |
| April 2005 | Two-week strike on Radio-France |

The Law on Freedom of Communication 1986 recognises the right of employees to go on strike by stating the formal conditions that strikers have to respect, including a five-day prior notice. It also states that, in case of strike, continuity of service must be ensured, but the decree specifying the details of this requirement (especially which programmes must be provided on strike days, at what time and by whom) has not been issued so far. In practice, the programming on strike days depends very much on the agreements that the station's management reach with employees and their unions. Generally, public broadcasters provide a minimum schedule, including the 20.00 news and a movie on television stations, and a music programme on radio stations with a newscast at 13.00 and 19.00. However, on some rare occasions when strikes were particularly large, not even the minimum programmes were provided.

⁷⁵ For example, for the traditional (live) interview of the President of Republic on 14 July (Bastille Day), broadcasters previously discuss the names of the interviewees with the President's staff. Although the interviewers admit exchanging views with staff about the issues to be addressed during the interview, they claim they do not submit their questions for prior approval.

⁷⁶ These strikes also reflect a latent crisis of the public service broadcasting (see section 9).

By contrast, there are very few, if any, strikes in private broadcasting companies. One notable exception was a strike at the radio station RMC during March 1998, when the ownership of the station changed. Yet, private television stations may be affected by strikes in public corporations since some of them rely on the equipment of public companies – for example, transmitters run by TDF or the production facilities of SFP.

4.4.2 Expression of political, social and religious forces

France 2, France 3 and Radio France must provide free airtime to political parties represented in Parliament and to those unions and professional associations considered to be representative at national level.⁷⁷

The amount of time allocated to these broadcasts and their format are determined by the CSA. For political parties, the time allocated is proportional to the number of their MPs. For example, in 2003, the Communist Party was awarded the right to use five broadcasts (overall, 18 minutes) while the Union for a Popular Movement (*Union pour un mouvement populaire* – UMP), which had the majority in Parliament, was given 50 broadcasts (180 minutes overall). For unions and professional associations, a similar regime applies. In 2003, each of the 12 selected organisations of national importance was allocated ten broadcasts (36 minutes overall).

These provisions have raised two sorts of criticism. Political parties and unions have complained that their broadcasts are not scheduled at convenient times.⁷⁸ In the view of the CSA, the scheduling of these programmes, although not at peak hours, still allows interested citizens to watch political or unions' broadcasts without burdening the public broadcasters unduly. Public broadcasters dislike political and union broadcasts because they attract very low audiences.

More importantly, no airtime is provided to political parties not represented in Parliament or to unions that are not considered as representative. The official CSA reply to this problem – which relates to a general weakness of regulations with respect to political pluralism on television and radio – is that those organisations with the right to broadcast are strictly defined by the law.⁷⁹ In fact, this is an institutional approach based on the notion of “representativeness”, as measured in political or professional elections, versus a more realistic approach for which objective indicators would be difficult to determine.

France 3 is also obliged to cover the activity of Parliament through a weekly live broadcast of parliamentary sessions devoted to Members' questions to the Government.

⁷⁷ This is according to the general legislation on industrial relations only.

⁷⁸ CSA, *La lettre du CSA*, monthly newsletter, February 2003.

⁷⁹ Representative unions and professional associations are defined by the general legislation on industrial relations, according to a number of criteria, including membership, audience in professional elections and independence.

France 2 has to broadcast religious programmes. These are mainly broadcast on Sunday mornings, but also in late night shows, and amounted to a total of 193 hours in 2002, including Catholic (78 hours), Protestant (31 hours), Jewish (26 hours), Muslim (25 hours), Orthodox (18 hours) and Buddhist (13 hours) rites.

Finally, during electoral campaigns, public broadcasters are in charge of airing the candidates' broadcasts.⁸⁰ The amount of time allocated to candidates depends on the type of elections. For elections to the National Assembly, candidates affiliated to a political party represented in Parliament are allocated a total of three hours before the first round, and one hour and a half before the second round.⁸¹ Parties not represented in Parliament are allocated seven minutes each for the first round and five minutes each for the second round. For the presidential election, each candidate in the first round is in principle given two hours on each of the public television or radio channels. In practice, this time may be reduced by the CSA when the number of candidates is too high.⁸²

The CSA is responsible for setting the rules of electoral broadcasts. These rules have changed over time with the aim of making electoral broadcasts more attractive. In the past, candidates had to record their broadcasts in the same studio within a very austere setting. With the new rules adopted by the CSA in May 2004⁸³ candidates are allowed to shoot their broadcasts in whatever setting they like. They have to use public broadcasters' staff for at least half of their broadcast time, but are allowed to fill the other half of their programmes with their own video or sound inserts. In parallel, the maximum length of spots has been reduced. It was five minutes in 2002 versus 15 minutes in 1988 and 1995. While these changes may contribute to the modernisation of political expression on television, they also contradict the CSA's concerns about the marginalisation of political broadcasts on French television.⁸⁴

4.4.3 Requirements for cultural programmes

France 2 and France 3 must each broadcast a minimum of 15 public musical, dance or drama performances per year. They also have to broadcast music programmes – two hours per month on France 2 and three hours per month on France 3 – with at least 16 hours per year devoted to concerts. Finally, France 2, France 3 and, above all, France 5 must regularly broadcast programmes on science and technology and the

⁸⁰ That is official broadcasts paid by the State, which are only allowed during electoral campaigns. Political advertising paid by candidates is not allowed on French television.

⁸¹ Electoral Code, art. 167(1).

⁸² Thus, in 2002, each candidate in the first round was allocated 48 minutes on each of France 2, France 3, France Inter and RFO; each of the two candidates present at the second round were given 60 minutes.

⁸³ CSA Decision No. 2004-196 of 18 May 2004 concerning the conditions of production and broadcasting of electoral programmes for the elections for the European Parliament.

⁸⁴ Jacques Gerstlé, *La communication politique, (Political Communication)*, Paris, Armand Colin, 2004, pp. 74–75.

social sciences, although there is no quantitative requirement for this kind of programming.⁸⁵

In practice, because the quantitative obligations are somewhat low, public broadcasters usually air more public performances than required.⁸⁶ For example, France 2 broadcast 26 public performances in 2002 instead of 15 as required. In addition, public broadcasters also schedule a significant number of programmes devoted to the arts – 413 hours on France 2 and 322 hours on France 3 in 2002.

Overall, the cultural programming of France 2 and France 3 represent between 9 and 12 per cent of their total schedule. For France 5, which has a special focus on knowledge and education programmes, it is almost 50 per cent of total programming. Public broadcasters are doing better in this area than private broadcasters. Yet, it should be noted that only a small part of this offering is scheduled at peak hours (from 18.00 until 23.00). In this respect, the cultural programming of commercial broadcasters at peak hours is higher than that of France 2.

The programming obligations of public broadcasters, combined with their editorial strategy, result in a mixed schedule, of which some features can be highlighted. (See Annex 1 for more details on broadcasters' annual output.)

Public channels air regular political shows which are nonexistent on commercial broadcasters. These include *100 minutes pour convaincre* ("100 minutes to convince") on France 2, *France Europe Express* on France 3, and *Ripostes* ("Replies") on France 5. The evening news on France 3, which mixes national and regional stories during one full hour, is quite popular, with an audience share of between 25 per cent and 30 per cent. Public broadcasters provide extensive coverage of sports, including tennis, cycling, rugby, athletics, but have consistently been unable to acquire the rights of football games. Unlike commercial broadcasters, the public broadcasters have so far refrained from going into reality television. Some of the programmes of France 3, including *Des Racines et des Ailes* ("Roots and Wings"), a magazine exploring the artistic heritage of landmark cities throughout the world, and *Thalassa*, a discovery magazine covering a wide array of stories related to oceans and seas, are widely acclaimed for their quality. However, public broadcasters' programmes do not necessarily gain high ratings. On average, out of the top 100 most popular television programmes, only four to five originate from public broadcasters.⁸⁷

⁸⁵ France Télévisions, *Cahiers des charges, (Terms of reference)*, available (in French) at <http://charte.francetv.fr/> (accessed 13 July 2005).

⁸⁶ For full details, see Annex 1.

⁸⁷ Médiamétrie, television annual ratings 2004, available at: <http://www.mediametrie.fr> (accessed 25 July 2005).

4.5 Editorial standards

Within the public broadcasting system, several documents provide rules and guidelines with respect to ethical and deontological issues. At a general level, the so-called “objectives and means contract” signed between France Télévisions and the State for the period 2001–2005 lays down certain editorial principles.⁸⁸ In this document, France Télévisions commits itself to providing a large diversity of programmes and to encouraging creativity and innovation. Viewers must be placed at the heart of the public broadcasting system and there must be an annual monitoring by the Government and Parliament of how France Télévisions’ programmes reflect the values of public television – pluralism, ethics, proximity, and open-mindedness. To permit such monitoring, France Télévisions will provide a series of indicators, the details of which have not yet been published.

It is also stated that public channels should make every effort to attract an audience which, in socio-demographic terms, resembles the whole French population. Moreover, France Télévisions should act as a reference point in French broadcasting: “Unlike private channels, public television is not seeking an economically attractive audience, but one that is socially legitimate”.⁸⁹ Under the objectives and means contract, there is no quantitative requirement in terms of ratings.

At a second level, France Télévisions has adopted a programming chart providing editorial rules or guidelines for handling a series of issues (see Table 10 below).

⁸⁸ See: France Télévisions, *Objectives and means contract*.

⁸⁹ “A la différence des chaînes privées, la télévision publique ne recherche pas une audience économiquement utile, mais socialement légitime”. France Télévisions, *Objectives and means contract*, objective II(b).

Table 10. Excerpts from France Télévisions' programming chart

| Subject | Editorial standards |
|--|--|
| Preamble and general principles | <ul style="list-style-type: none"> • Freedom of speech. Public television is an essential ingredient for the quality of democracy. • Accountability to the public. Full editorial control of programming. |
| Respect of personal rights and dignity | <ul style="list-style-type: none"> • Respect for privacy. Each person has the right to his or her own image. • Compassion for victims of crime or tragedy. • No discrimination based on ethnic, national, race or religious grounds. • Prisoners of war must be covered according to the Geneva Conventions. |
| Protection of minors | <ul style="list-style-type: none"> • Exercise of special care when children are involved. Refrain from interviewing minors and, when doing so, protect their privacy by any appropriate technique. • Programmes for children should promote civic values and integration. Children should be preserved from commercial pressure. • Reminder of the regulations governing programmes that may not be suitable for minors (identification with specific icons). |
| Violence | <ul style="list-style-type: none"> • Prior warning before broadcasting images portraying violence. • Mindful care and restraint when covering terrorist or hostages stories, especially avoid providing an excessive platform for terrorists/kidnappers. |
| Advertising | <ul style="list-style-type: none"> • Reminder of the general regulations governing television commercials. • The share of a single advertiser must not exceed eight per cent of France Télévisions' total advertising revenue. • Commercial breaks featuring only one brand are not permitted. |
| Independence and impartial coverage | <ul style="list-style-type: none"> • Avoid conflict of interest that may undermine or harm credibility. • Collaborations outside France Télévisions are limited (for example, with training, non-profit organisations, public interest debates) and must be declared. |

Source: France Télévisions⁹⁰

Finally, on 24 August 2000 an agreement relating to the ethical behaviour of France 2 journalists and detailing additional production standards was signed between the management and all journalists' unions.⁹¹ Journalists are reminded that "images are never neutral and they carry information, ideas and emotions".⁹² While technology

⁹⁰ France Télévisions, *Cahiers des charges, (Terms of reference)*, available (in French) at <http://charte.francetv.fr/> (accessed 13 July 2005).

⁹¹ France Télévisions, *Accord d'entreprise relative à la déontologie des journalistes à France 2*, available at <http://charte.francetv.fr> (accessed 13 July 2005), (hereafter, France Télévisions, *Agreement*).

⁹² France Télévisions, *Agreement*, art. 3.

allows live coverage of events, it must be preceded by thoughtful investigation. The use of external images such as images produced by sources other than journalists must be limited. Journalists should not accept gifts or favours that may compromise their independence. They are also barred from engaging in activities outside France 2, such as media training or events organised by corporations, except when formally authorised by management.

In practice, public channels are not always the “reference point” that they are supposed to be. While France Télévisions has refrained from going into reality TV, several of its talk-shows have repeatedly generated controversy and complaints. *C'est mon choix* (“It’s my choice”), a talk-show in which individuals defend their lifestyle choices, sparked protests from some viewers for being futile and vulgar, presenting marginal behaviour as desirable, or encouraging relativism with respect to social norms.⁹³ However, other viewers found this talk-show useful and informative in that it contributed to a greater tolerance toward minorities. Another talk-show, *Tout le monde en parle* (“Everybody is talking about it”), was very much criticised after featuring a journalist who alleged that there was no evidence of a terrorist attack against the Pentagon on 11 September 2001. This programme’s host has also specialised in asking politicians inappropriate questions about their sexual preferences and behaviour.

With respect to news, on several occasions France 2 and France 3 failed to meet their basic obligation to report facts accurately. The most notorious case occurred on 3 February 2004, when David Pujadas, the anchor for France 2’s news bulletin at 20.00, announced that Alain Juppé, a former Prime Minister, was quitting politics, based on supposedly authoritative sources. At the same moment, Juppé was being interviewed on TF1 and explaining that he was not quitting. This error was widely criticised in other media outlets. In spite of public apologies by Pujadas, the chair of France Télévisions decided to suspend him for 15 days and France 2’s news director was forced to resign. The CSA also blamed France 2. In a separate case, France 3’s news department presented a person, a porter at the Orly airport, as a potential terrorist whereas investigations showed that he was the victim of a family feud.

These incidents certainly demonstrate one of the structural problems of public channels. Because they are required to compete with commercial channels and achieve high ratings, journalists are prone to take exaggerated risks and cover stories without cross-checking their sources. This might be the combined effect of insufficient training and the strong competition among journalists, which lead some of them to sidestep ethical rules in order to break hot stories.⁹⁴

⁹³ This talkshow was cancelled in July 2004, following a conflict between its host and its producer.

⁹⁴ OSI roundtable comment and comments submitted by media experts to EUMAP.

5. REGULATION AND MANAGEMENT OF COMMERCIAL BROADCASTING

There are three terrestrial commercial channels, each with a specific format. TF1 is a general-interest and family-oriented channel. M6 targets young audiences with reality TV, series and current affairs magazines. Canal+ is a Pay-TV channel focusing on movies and football matches. Reaching one third of the audience on average and getting half of the television advertising revenues, TF1 enjoys a dominant position which has no equivalent in other industrialised countries. Apart from the general obligations imposed on all broadcasters, commercial broadcasters have only a few specific obligations. Although there are complex cross-ownership rules, they do not prevent broadcasters from being part of larger communication groups involved in cable and satellite operations, television production or video publishing.

5.1 The commercial broadcasting system

France's three national commercial television stations are TF1, Canal+ and M6. They are each part of larger broadcasting groups involved in production, video-publishing, cable and satellite operations.

The radio sector is dominated by three main groups – NRJ, RTL (Bertelsmann) and Europe1 (Lagardère Group). Each of these groups run several networks of radio stations. In addition, there are about 1,000 independent radio stations, some of them affiliated to national networks.

Since its inception as a private broadcaster in 1987 through privatisation of the first public channel, TF1 has constantly been the most popular channel, attracting roughly one third of the total viewership. A general-interest and family-oriented channel, TF1's programming is centred on television series, feature films, sports and entertainment shows in primetime, games and entertainment shows in access primetime, and current affairs and talk-shows at late night hours. TF1's newscasts are particularly successful, with an average audience of seven million viewers for the 13.00 newscast and 8.7 million viewers on average for the 20.00 news, which is twice as much as France 2's newscast. TF1 is the broadcasting branch of TF1 Group which is also involved in audiovisual production, video-publishing and channels on cable and satellite. It is controlled by Bouygues, a family company that started its business in public works.⁹⁵

Established in 1986, M6 initially specialised in music programmes and television series, targeting young viewers. M6 has diversified its output over time by scheduling very popular current affairs programmes and documentaries in primetime. More recently, M6 has committed itself heavily to reality TV and imported formats such as Big Brother or

⁹⁵ On the history of TF1, see: Pierre Pean, Christophe Nick, *TF1, un pouvoir, (TF1, a power)*, Paris, Fayard, 1997.

the Bachelor. So far, M6 has implemented a “counter-programming strategy” by trying to broadcast different programmes than those aired by TF1 and France 2 at the same time. As shown in Annex 1 (Table A8), M6 has a very distinctive output, with only very short newscasts (known as “six-minute news”), broadcast six minutes before 13.00 and 20.00, and almost no sports programmes. This strategy might be revised in the near future as it is apparent that M6 plans to buy sports broadcasting rights.

Set up in 1984, Canal+ is the oldest of the private channels. It offers a scrambled subscription service, which requires the use of a decoder device to watch its programmes except for those that are not encrypted (at midday and from 19.00 through 20.30). It is focused on feature films and sports, notably football games. Although initially greeted with widespread scepticism, Canal+ has done exceptionally well during the past decade, reaching a peak of 4.6 million subscribers in 2000. It exported its format to European countries such as Spain, Belgium and Poland. Since 2002, Canal+ has gone through a more troubled period due to the reorganisation of its parent company, Vivendi, the increasing competition of other movie channels available on cable and satellite, as well as of DVDs, and, finally, the exhaustion of its initial format. This was reflected in the decline of the subscriber base of Canal+, from 4.576 million in December 1999 to 4.35 million in December 2003.⁹⁶ However, the recent purchase of all the French football championship rights and the development of digital television – which would allow Canal+ to offer several television services on the same channel – might stop this decline. This is apparent in the increase of the subscriber base to 4.7 million in December 2004.

5.2 Commercial television ownership and cross-ownership

Ownership and cross-ownership in the media sector are governed by the Law on Freedom of Communication 1986, supplemented by subsequent laws and decrees. On the one hand, various provisions impose limits on concentration of ownership for each type of medium (terrestrial television, terrestrial radio, satellite platform and cable systems).⁹⁷ There is no limitation on the number of cable or satellite channels that one single company may own. Foreign ownership is also limited to a maximum share of 20 per cent in one broadcasting company. On the other hand, cross-ownership is limited by the so-called “two-out-of-three situations” (2/3 rule) rule applying both at national and regional levels (see Table 11 below).⁹⁸

⁹⁶ Canal+ annual reports. As new subscribers are recruited each year, this means that a significant number of subscribers (almost 10 per cent in 2003) chose not to renew their subscription.

⁹⁷ French regulations may be somewhat confusing as they refer in some instances to “conduits” (the operation of a cable system), in other instances to “contents” (the provision of a nationwide television service), and in still other instances to the provision of a “conduit service” (as is the case with satellite television service, which does not fall in either of the two regulations)

⁹⁸ For a detailed presentation and discussion of the French ownership and cross-ownership provisions, see: Derieux Emmanuel, *Droit de la communication, (Communication Law)*, LGDJ, Paris, 2003. (This book is regularly updated and readers are invited to ask for the latest edition.)

While these provisions seek to ensure political and programming pluralism through diversity in media corporations, they have been criticised on several grounds. Their effectiveness has been questioned, since neither the CSA nor any other specialised agency has the authority to approve ownership changes in the media sector.⁹⁹ When Suez sold most of its share in M6 to RTL Group, the CSA could only remind RTL of the obligations placed on the channel at the moment of its licensing.¹⁰⁰

Ownership limitations are also said to be excessively rigid and do not allow for quick necessary adjustments in such a fast-developing sector as broadcasting. These limitations are also criticised for not being sufficient to guarantee pluralism in society¹⁰¹. The existence of many owners may not translate into pluralistic diversity if owners hold similar views and values. Moreover, market forces can push even diverse owners toward providing similar content in order to reach the same dominant segment of audience. That is why the French regulation of ownership and cross-ownership is complemented by regulation of the content provided by each outlet.

A constant tension in France's ownership regulations is how to reconcile the creation of major communication groups able to compete with other multinational holdings at international level (which requires some concentration) with pluralism and diversity of the media (which requires anti-monopoly regulation). Successive governments have coped with this challenge in different ways in the past. When the (then) public broadcaster TF1 was sold off to private interests in 1987, the Hachette group's bid failed, in part because of its strong presence in print media. Ten years later, both President Jacques Chirac and Prime Minister Lionel Jospin applauded and supported the acquisition of Seagram (Universal) by Vivendi.

To date, the main effect of cross-ownership regulations has been to keep broadcast media apart from print media. These regulations have not closed the audiovisual market to foreign companies, as is demonstrated by the rampant Americanisation of cable operators and in the takeover of M6 by RTL Group. In the latter case, it seems that economic realism has prevailed over legal regulations.

To take into account the new situation that digital transmission will create, additional cross-ownership regulations were passed in 2001,¹⁰² including a maximum of seven licences for digital television services held by a same company.

⁹⁹ The CSA must be notified of significant changes (over 10 per cent of capital) in ownership. Law on Freedom of Communication 1986, art. 38.

¹⁰⁰ The CSA could suspend the licence of M6 if it considered that the new owner did not respect the obligations attached to the licensing contract.

¹⁰¹ See, for example, the memo issued by the Observatoire français des medias (OFM), a critical media watchdog organization: *La concentration des medias en France, (Media concentration in France)*, no date, available at <http://www.observatoire-medias.info> (accessed 4 August 2005). The OFM memo states that television ownership regulations are clearly insufficient because they did not prevent alliances among TV private operators, as well as dangerous connections between the television sector and other economic sectors (p. 9).

¹⁰² Through Law No. 2001-624 of 17 July 2001.

Table 11. Ownership regulation

| | Licence Term (years) | Ownership by a single company (per cent) | Foreign ownership (per cent) | Cross-ownership restrictions |
|--|---|---|------------------------------|--|
| National Terrestrial Television ¹⁰³ | An initial ten-year licence, with one possible extension for five years. ¹⁰⁴ | · Less than 49 per cent (except if the average audience share is below 2.5 per cent). · If above 15 per cent in one station, then less than 15 per cent in the second station. · If above 5 per cent in 2 stations, then less than 5 per cent in the third station. | Below 20 per cent | One company may not hold more than one licence for national service. 2/3 rule. ¹⁰⁵ |
| Local Terrestrial Television | An initial ten-year licence, with two possible extensions, each for five years. | Below 49 per cent | Below 20 per cent | If several television stations operated, total served population must be less than 12 million inhabitants. 2/3 rule. ¹⁰⁵ |
| Terrestrial Radio | An initial five-year licence, with two possible extensions, each for five years. | None | Below 20 per cent | If several networks owned, total served population must be less than 150 million inhabitants and the audience share below 20 per cent of the total radio. 2/3 rule. ¹⁰⁵ |
| Satellite television service | 10 years | Below 50 per cent. If more than 1/3 in one service, then less than 1/3 in the second service. If more than 5 per cent in two services, then less than 5 per cent in the third service. | None | One company may not hold more than two licences for satellite TV service. |
| Satellite radio | 5 years | Below 50 per cent | None | None |
| Cable systems | 20 years | None | None | 2/3 rule. ¹⁰⁵ |

Source: Adapted from E. Derieux¹⁰⁶

¹⁰³ Defined by the Law on Freedom of Communication 1986 (Article 41-3) as reaching a population of over 10 million habitants.

¹⁰⁴ Before 1 January 2002, two extensions (each of five years) were possible.

¹⁰⁵ 2/3 rule: a company may not meet more than two of the following situations: holding a licence for one or several terrestrial television services reaching more than four million viewers; holding a licence for one or more radio services reaching more than 30 million viewers; publishing or controlling one or several daily newspapers with a national market share over 20 per cent. (An equivalent rule applies at the regional level.) This rule was changed by the Law on Electronic Communications 2004, which removed a fourth situation: holding one or more authorisations to operate cable systems serving more than eight million viewers.

¹⁰⁶ Emmanuel Derieux, *Droit de la communication*, (Communication Law), LG DI, Paris, 2003.

5.3 Programme framework

In addition to the general obligations on all broadcasters (see Section 6), private broadcasters are required to comply with specific programming or production requirements as a result of the licensing contracts signed with the CSA (see section 3.2.)

Table 12. Private broadcasters compliance with their programming requirements (2002)

| | TF1 | | M6 | |
|-----------------------------|---|-----------------------|---|--------------------------------|
| | Requirements | Compliance | Requirements | Compliance |
| News and current affairs | 800 hours/year | 881 hours | None | |
| Programmes for young people | 1,000 hours /year | 1155 hours 35 mins | None | |
| | 50 hours/year in documentaries | 50 hours 38 mins | | |
| Animated programmes | Investment: 0.6 per cent of turnover | 0.66 per cent | <ul style="list-style-type: none"> • Minimum: one per cent of production investments • Minimum: 50 per cent of European works | 1.01 per cent 55.4 per cent |
| Music programmes | None | | <ul style="list-style-type: none"> • Minimum: 30 per cent of total programming hours • Minimum: 50 per cent of French music during music programmes | 31.9 per cent 57.4 per cent |
| | | | <ul style="list-style-type: none"> • Minimum investment: €21.43 million | €29 million |
| | | | <ul style="list-style-type: none"> • 150 video-clips of French artists | 150 |
| | | | <ul style="list-style-type: none"> • 30 video-clips of brand new artists | 48 |

Source: CSA¹⁰⁷

Among commercial broadcasters, Canal+ is subject to very specific regulations due to its special format. When Canal+ was launched in 1984 as a Pay-TV channel centred on movies, it was authorised to broadcast many more feature films than other broadcasters. It also enjoyed the advantage of being allowed to schedule films only one year after their release at cinemas, versus 24 or 36 months imposed on other broadcasters. As compensation, Canal+ agreed to invest a significant share of its resources in funding the French film industry. This deal is reflected in the

¹⁰⁷ Information from the CSA website.

programming and production obligations placed upon Canal+ through decrees and conventions, as shown below in Table 13.

Table 13. Canal+ obligations, as compared to other broadcasters (2002)

| | Canal+ | Other broadcasters |
|--|--|--------------------------|
| Maximum number of feature films per year | 500 (of which 150 between midnight and noon) | 192 (144 in prime time) |
| Minimum investment in movie production | 20 per cent of annual revenue (12 per cent to EU and 9 per cent to FL) | 3.2 per cent of turnover |
| Audiovisual production | 4.5 per cent of turnover to EU and FL works | 16 to 18.5 per cent |

EU: European works; FL: works originally produced in French language

Source: CSA, Canal+¹⁰⁸

In practice, the legal obligations on commercial broadcasters allow for great flexibility in programming strategies. After focusing on entertainment, games and talk-shows until the end of the 1990s, TF1 shifted to a more balanced schedule including action movies, television series and football matches. TF1 has been especially successful with its television drama series, 60 of them being among the 100 biggest audiences of the year. Moreover, almost all of them are French productions, which contradicts the common idea in France that only American series and movies perform well. A core element in the TF1 programming line-up is the popularity of the 20.00 newscast, which attracted on average 8.7 million viewers in 2003 and has the merit of retaining a substantial audience before and after the newscast.

TF1's news anchors have not been changed for 15 years. The most amazing aspect of TF1 is its apparent ability to achieve high ratings whatever type of programme is provided, as if TF1 viewers were primarily attached to the channel's style rather than to the content of programmes. Finally, TF1's management is very responsive. Unpopular programmes are quickly cancelled and hosts and producers failing to perform well are immediately replaced. After it spurned reality TV as "trash" in 2000, TF1's management launched the station's own reality TV programmes the following year.

As for M6, regulation did not prevent the channel from heavily resorting to reality TV programmes, mainly by importing foreign formats such as *Big Brother*, *The Bachelor* and *Pop Idol*. M6 also offers many imported American series, but also some innovative current affairs or discovery magazines, notably *Capital*, which covers a broad range of societal issues in a lively and fresh style, or *Zone interdite* ("Forbidden zone") which boldly tackles controversial issues related to new trends in lifestyles. It seems that M6 is

¹⁰⁸ Information from the CSA website and Canal Plus website, available at <http://www.canalplusgroup.com> (accessed 14 August 2005).

now at a cross-roads and has to decide whether it will compete more directly with TF1 by targeting a larger audience and offering a wider range of programmes, including news programmes, which do not exceed two ten-minute sequences a day, and sports.

5.4 Editorial standards

Some of the editorial standards applying to commercial broadcasters are laid down in the licensing contract they signed with the CSA. More specifically, these contracts state that:

- Sources should be checked and identified whenever possible. Uncertain or unchecked news must be presented as such.
- The use of surreptitious newsgathering techniques such as hidden cameras or microphones should be limited and explained to the audience.
- The use of telephone polls or on-the-spot interviews should not be presented as representative of the whole population.
- Broadcasters should refrain from using technical tools that modify the content or meaning of images, with the exception of television series or entertainment programmes and only if this is explained to the audience.
- Images presented by television stations should be directly related to the story. Images taken from archives should be clearly labelled as such and their origin and date should be mentioned.
- Images or sounds that are re-enacted or dramatised cannot be presented without informing the public.
- Mixing of news and entertainment should be avoided.
- Broadcasters must use professional journalists in producing their news programmes.

In addition to their contractual obligations, TF1 and M6 have adopted their own editorial standards. In 1994, TF1 adopted 18 ethical rules, which are essentially similar to those laid down in its licensing contract with the CSA. The 2003 annual report of TF1 states that the company “has made numerous efforts in terms of ethical broadcasting.”¹⁰⁹ It further states that the station “has created an internal programme conformity service which exercises control of all the programmes scheduled for broadcasting on the channel.”

¹⁰⁹ TF1, *Annual Report 2003*, p. 32.

6. BROADCASTING REGULATION – COMMON OBLIGATIONS

While there are specific obligations for public broadcasters and for private broadcasters, respectively, private and public broadcasters are to a large extent bound by the same obligations. For public television and radio stations, these obligations are set down in their terms of reference (*cahier des charges*).¹¹⁰ For commercial terrestrial television and radio stations, and channels available on cable and satellite, they are stated in their licensing contract (*convention*). The use of two different terms for quite similar regulations highlights the fact that obligations on public television and radio stations are imposed by the Government through decrees, whereas obligations placed on commercial television and radio stations result from contractual agreements between them and the CSA.¹¹¹

The common obligations for public and private broadcasters are intended to ensure pluralism and diversity of opinions, protect young viewers, and limit the scope of advertising. In France, as in many other countries, freedom of communication is regarded as one of the basic prerequisites for democracy. However, it is also recognised that some restrictions on communication are necessary in order to foster social cohesion, justice and other values such as human dignity, and also to protect other freedoms, notably ownership rights. Another substantial part of these obligations are designed to defend French identity and cultural diversity, through programming quotas and restrictions, and a unique system of supporting the production of French language movies and audiovisual works.

6.1 Pluralism and information fairness

The French regulatory framework makes a distinction between two kinds of pluralism – external pluralism and internal pluralism. External pluralism relates to the diversity of channel operators, which is reached through the licensing process, under the responsibility of the CSA, and based on ownership and cross-ownership regulations (see section 5.2). Internal pluralism relates to the diversity of programmes provided on each channel, which is also one of the CSA's remits. These are construed along the following lines – general guidelines for internal political pluralism and regulations during electoral campaigns.

¹¹⁰ These are contracts between public broadcasters and the State, which are formalised by decrees.

¹¹¹ The distinction between *cahier des charges* and *conventions* remains minor and somewhat formal. It does not really oppose hierarchical regulation (for the public sector) to contract-based regulation (for the private sector). First, the CSA is also involved in designing regulations applicable to public broadcasters by advising the Government on their terms of reference. Second, the licensing contracts for private television stations follow general guidelines established by law and only minor changes can be negotiated with the CSA.

6.1.1 General guidelines for internal political pluralism

Regarding internal pluralism, the CSA has set up several guidelines, basically all revolving around the idea of equal time provision. Until 2000, all television stations had to comply with the so-called “three-thirds rule” when covering political activities. This meant that stations had to devote one third of their airtime to Government officials, one third to the political parties represented in Parliament which supported the Government, and another third to the political parties that represented the opposition in Parliament.

In January 2000, the CSA amended its policy on political pluralism on television and established new standards, known as the “reference principle”. On the one hand, the CSA adjusted the three-thirds rule, by requiring an “equitable” access to television for those political parties not represented in Parliament. The basic rule for political pluralism has consequently been rephrased as follows,

The airtime devoted to politicians standing for the opposition in Parliament may not be less than 50 per cent of the total airtime devoted to politicians standing for the Government and for the majority parties in Parliament. Moreover, channel operators have to ensure that an equitable amount of airtime is devoted to politicians standing for those parties, which are not represented in Parliament.¹¹²

As yet, however, the exact meaning of “equitable” in this context does not seem to have been defined by the CSA.

On the other hand, the CSA stated that, besides quantitative indicators focused on politicians’ public statements, a more qualitative evaluation of the coverage of politics by the media was needed. This meant that television channels must take other parameters into consideration, such as the duration, format and audience of programmes devoted to politics.

Practically, it seems that the new reference principle inaugurated in January 2000 has only changed the “three-thirds rule” into an “about 30 per cent-30 per cent-30 per cent and roughly ten per cent” rule. Judging by the official statements of the CSA, it is not clear how the qualitative assessment of political coverage has been implemented.

6.1.2 Regulations during electoral campaigns

During electoral campaigns a special regime applies, the details of which are set up by the CSA depending on the nature of the election. As a general principle, two periods are distinguished. In the first period, which covers the so-called pre-campaign or non-official campaign, broadcasters must ensure that all candidates for public offices have “equitable” access to the screen. Again, the term equitable has not been precisely defined by the CSA,

¹¹² CSA legal texts, available on the CSA website at http://www.csa.fr/infos/textes/textes_detail.php?id=8546 (accessed 4 August 2005).

but from the observations and comments made by the CSA, it can be inferred that it means proportional to the public support gained by candidates as registered in opinion polls. The CSA also specifies when this pre-campaign period starts.¹¹³

Then, during the official electoral campaign, an equal time provision applies and broadcasters have to devote equal airtime to each candidate. While this rule is easy to implement for presidential elections, where individual candidates compete at the national level, it is more complicated for elections taking place within sub-national districts. The performance of television stations regarding political pluralism is reviewed monthly by the CSA on the basis of the three latest months. When the CSA considers that a broadcaster's coverage is unbalanced, a formal notice reminding of the reference principle and calls for the necessary adjustments are sent to the respective broadcaster.¹¹⁴

Formerly a major issue in French broadcasting, the coverage of politics is now much less debated. The major parties are content with the current situation and only complain about technical issues, such as the way the airtime devoted to politicians' wives is counted or whether the appearance of politicians in entertainment shows should be taken into account.

6.2 Defence of cultural diversity

The defence and promotion of French culture is a cornerstone of French broadcasting regulation. Successive Governments, of the right and left alike, have constantly held the view that cultural and media products are different from other forms of merchandise because they encapsulate part of the country's identity. As a result, France – backed by some other countries such as Canada – has become the leading exponent of a “cultural exception” to free-trade principles and championed the right to support and protect the development of a local, creative and pluralistic cultural life. It should be noted that, in an interesting tactical move initiated in 2000, the notion of cultural exception has been rephrased more positively as “cultural diversity”.

At the European level, this concern was partly taken into account in the political compromise that led, in 1989, to the adoption of the EU “Television without

¹¹³ French electoral legislation only recognises the official campaign period, which usually starts three weeks before the election day. However, in most cases, the real launch of the campaign process is much earlier. Depending on the nature of the election, but also on the political climate, pre-election campaigns start from six to two months before the election day.

¹¹⁴ A good example of the CSA's monitoring action is provided by the recent campaign on the European constitution. In several instances, the CSA sent letters to broadcasters, inviteing them to give more airtime to opponents of the EU constitution. Further details available on the CSA website at http://www.csa.fr/infos/controle/television_elections_detail.php?id=24604 (accessed 4 July 2005).

Frontiers” (TWF) Directive,¹¹⁵ which recognised the principle of quotas, although in an ambiguous form. At the national level, it is reflected in programming obligations and restrictions as well as in provisions to encourage French-language productions.

More recently, the representation of French society’s cultural diversity – referring to the portrayal of “people of foreign origin” on television – has become an issue and led to some changes.

6.2.1 Programming obligations in the form of quotas

Some 60 per cent of the movies and series broadcast by television channels have to originate from European countries and 40 per cent from French speaking countries, which include non-European countries, notably Canada. This requirement applies to the entire schedule and also specifically to primetime hours, from 20.30 to 22.30, in order to avoid the programming of European or French-language programmes only during late night hours. For television series it has now been extended to peak time (between 18.00 and 23.00).

Radio stations must also comply with a quota system that has been partly inspired by the Canadian experience. These quotas were set up in order to promote French singers, but also to fight the shrinking of French play-lists. In 2000, only 24,400 different songs were played on French stations compared to 56,300 in 1995, and half as many different artists. As a general principle, 40 per cent of the songs played must be in French or in a regional language spoken in France (such as the languages of Corsica or Brittany), and 50 per cent must be new releases or originate from brand-new artists (what the French call “new talents”). To cope with the various formats in use on French radio stations, the Law of 1 August 2000 introduced two new options.¹¹⁶ Radio stations with an “oldies” format must broadcast 60 per cent of their total number of songs in French, and still ten per cent of the total must be new releases. Radio stations with a format centred on new releases, must broadcast 35 per cent of songs in French. A quota of 25 per cent of these songs in French must be by brand-new artists.

¹¹⁵ EU “Television without Frontiers Directive”: Council Directive of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, 89/552/EEC, OJ L 298 of 17 October 1989, as amended by European Parliament Directive of June 1997, 97/36/EC, OJ L 202 60 of 30 July 1997, consolidated text available on the European Commission website at http://europa.eu.int/eur-lex/en/consleg/pdf/1989/en_1989L0552_do_001.pdf (accessed 15 March 2005).

¹¹⁶ Article 28 of the Law on Freedom of Communication 1986, modified by the Law of 1 August 2000.

6.2.2 Programming restrictions

In an attempt to protect the movie industry from the competition of television, two kinds of time restrictions are imposed on broadcasters. The first one is known as the “chronology of media” and sets up various minimal periods of time between a film’s release at movie theatres and its distribution over other media (see Table 14). This chronology was initially laid down by French legislation. Since 1997, in accordance with the revised TWF Directive the chronology principle is stipulated in the contractual agreements between broadcasters and movie industry associations – Bureau de liaison des industries du cinema (BLIC) and the Syndicat des réalisateurs. The latest agreement was signed in January 1999 for a five-year period and goes as follows:

Table 14. Chronology for the distribution of feature films to various media

| T | T+ 6 months | T+ 9 months | T+ 12 months | T+ 24 months | T+ 36 months |
|--------------|--------------|---------------------------------|--------------|------------------------------------|----------------|
| Film release | Video or DVD | Pay per view or video on demand | Pay-TV | Free-to-air TV if film co-produced | Free-to-air TV |

Secondly, broadcasters are not allowed to broadcast more than 192 feature films per year, with a maximum of 144 in primetime hours. In addition, films cannot be broadcast on Wednesday and Friday evenings, during the whole of Saturday and before 20.30 on Sundays. Special provisions apply to Canal+ and movie channels available on cable or satellite. All broadcasters regularly comply with these limitations, indeed they tend to broadcast fewer movies than allowed.

6.2.3 Support of European and French movies and TV productions

Support for French movies and television productions takes two forms. First, free-to-air broadcasters – with the exception of France 5 and Canal+¹¹⁷ – must allocate a minimum share of their total revenue from the previous year (3.2 per cent since 2002) to the production of European movies. In addition, 75 per cent of these investments must be devoted to independent producers. Regarding investments in European or French-speaking audiovisual works, there are also thresholds for each broadcaster depending on its situation (see Annex 1). In all cases, two thirds of the investments in audiovisual works must be devoted to independent producers.

Second, all television channels, whether terrestrial or distributed on cable and satellite, must contribute around five per cent of their net revenue from the previous year to the Fund for Support of Programmes Industry (*Compte de soutien aux industries de programmes* – COSIP), which also draws cash from taxes on movie theatre tickets and

¹¹⁷ As indicated above, Canal + must devote 20 per cent of its annual revenues to movie production. France 5 is exempted from this obligation because it does not broadcast movies.

video rentals.¹¹⁸ (See Table 15 below.) The COSIP allocates grants and subsidies to French movies and producers of audiovisual works. In effect, the COSIP operates as a cross-subsidy mechanism between advertisers and producers, and also between foreign and French producers. For instance, the more successful an American movie is at the box-office (and hence, the greater the collected tax), the more significant the subsidies to French producers will be. Some might say that, ironically, thanks to the COSIP, American cultural imperialism nourishes French cultural diversity

Table 15. COSIP financial statement (2001)

| Income | | Expenditures | |
|-----------------------------------|-----------|--|-----------|
| Item | € Million | Item | € Million |
| Tax on tickets to movies theatres | 96.85 | Selective support to movie productions | 73.56 |
| Tax on broadcasters' revenues | 118.00 | Automatic support to movie productions | 143.93 |
| Tax on video rentals | 10.37 | Management costs | 9.54 |
| Sub-total for movies | 227.00 | Sub-total for movies | 227.00 |
| Tax on broadcasters' revenues | 209.77 | Support to TV productions | 202.71 |
| Tax on video rentals | 1.88 | Management costs | 8.89 |
| Sub-total for audiovisual works | 211.60 | Sub-total for audiovisual works | 211.60 |

Source: CNC¹¹⁹

6.2.4 Representation of the French society's cultural diversity

This topic only became an issue – although not a prominent one – in the late 1990s as part of the general political agenda on the integration in France of people coming from foreign countries (about ten per cent of the total population). While many viewers and media observers would concede that the diversity of French society is very poorly reflected on French television, regulation in this field, for example in the form of quotas, is difficult, or even impossible, to implement.¹²⁰

¹¹⁸ The Law of Finance for 2005 introduced a new tax on SMS (telephone messages) to fund the COSIP.

¹¹⁹ Centre national du cinéma (CNC), information from the CNC website, available at <http://www.cnc.fr/cncinfo/282/13.htm> (accessed 8 August 2005).

¹²⁰ This was one of the topics discussed at a conference "Ecrans pâles", ("Colourless screens") organised on 26 April 2004 in Paris by the CSA, along with the High Council for Integration (*Haut conseil à l'intégration* – HCI) and the Action and Support Fund for Integration and against Discriminations (*Fonds d'action et de soutien pour l'intégration et la lutte contre les discriminations* – FASILD), (hereafter, Conference on "Colourless screens")

Under the French Constitution, all citizens are considered equal whatever their origin. Ethnic groups must not be identified as such and cannot be counted.¹²¹ Consequently, policies on positive discrimination cannot be implemented and are opposed by many political parties, as they are considered a first move toward a “communitarian” society at odds with the French republican ideal. From a legal perspective, only negative discrimination – for instance, denying a person a job on the grounds of their origin – can be combated, which is often difficult since evidence can rarely be gathered.

In February 2001, a new obligation was added to the terms of reference of France 2 and France 3 whereby the two public service broadcasters had to promote “the different cultures constitutive of the French society without any kind of discrimination.”¹²² In the same year, the CSA introduced a change in the licensing contracts of TF1, M6 and Canal+ to ensure that the private broadcasters’ programming reflects “the diversity of origins and cultures within the national community.”¹²³

Besides its general and somewhat abstract obligations, as of January 2004 France Télévisions has implemented an action plan¹²⁴ that includes measures to increase the representation of foreign people who live in France (instead of people from foreign countries) in programmes and debates. Since 2001, France 3 has had a special week to promote integration and fight discrimination, during which the programming schedule of the public broadcaster is focused on foreign people living in France and French people with an immigrant background. The management of France Télévisions also sent a letter to the producers of fiction and current affairs programmes, urging them to take into account the representation of foreigners living in France. The station has also established a training scheme for young journalists with an immigrant background, in cooperation with two schools of journalism.

Similarly, private broadcasters have committed themselves to the promotion of diversity in their staff and in the casting of their programmes. Thus, TF1’s *Annual Report 2003* states that “TF1 pursues a policy of integrating journalists from national

¹²¹ Any mention of ethnic origin, colour or religion in official documents and reports of private or public companies is illegal according to the French Penal Code. For example, a company is not allowed to keep records of its employees’ national or ethnic origin, even for private purposes. The notion of “visible” minorities, that some people use, has been sharply criticised because it would legitimate discriminations based on the colour of skin or physical traits.

¹²² Article 2 of the terms of reference of France 2 and of France 3 (same text for both).

¹²³ For more details on these changes, see: Haut Conseil à l’Intégration, *Diversité culturelle et culture commune dans l’audiovisuel. Avis à Monsieur le Premier Ministre, (Cultural diversity and common culture in the broadcasting sector. Note to the Prime Minister)*, Paris, 17 March 2005, available at http://www.premier-ministre.gouv.fr/IMG/doc/Avis_HCI_audiovisuel.doc (accessed 4 August 2005), (hereafter, HCI, *Cultural Diversity*).

¹²⁴ A presentation of this plan is available at http://www.francetelevisions.fr/recup_data/recup_8.php?id=37&lg=fr&mode=html&year=2004&article=0&month=10 (accessed 4 August 2005).

minorities [sic], both in the news division and in the sports division. Furthermore, TF1 is diligent in promoting the presence of visible minorities in its most popular fiction dramas.”¹²⁵ M6 underlines that several of its shows’ hosts have an immigrant background.

In a recent report, issued on 17 March 2005,¹²⁶ the High Council for Integration (*Haut conseil à l’intégration* – HCI), an ad hoc commission set up by public authorities to monitor integration issues and suggest policy changes, recommended broadcasters:

- to give a “more realistic and balanced picture of French society’s diversity and plurality”;
- to not mention the origins of individuals in news whenever this is not pertinent information;
- to ensure that the different components of French society are represented in their staff.

The HCI suggested the inclusion of these principles in the broadcasters’ licensing contracts with the CSA and recommended that the CSA monitor how broadcasters respected these principles.

The HCI report is a follow-up to the conference “Colourless screens” organised by the HCI and the CSA on 26 April 2004.¹²⁷ Participants in the conference said that they noted positive changes in the depiction of French society’s diversity in youth programmes and fiction, but also that people with foreign origins were under-represented among journalists and show hosts.

6.3 Protection of minors

Over the last decade, the portrayal of violence and more generally the broadcast of programmes that can be offensive or undesirable to a young audience, has been a recurring issue in the French broadcasting sector.¹²⁸ To address this problem, the CSA has followed an approach mixing administrative intervention and self-regulation by broadcasters. According to the CSA, the objective of this policy is not to “sanitise television by prohibiting any portrayal of violence or eroticism”, but to increase the awareness of broadcasters and parents about the potential negative impact of some programmes. Therefore, in cooperation with broadcasters, the CSA designed a

¹²⁵ TF1, *Annual Report 2003*, English version, p. 32. It is interesting to note the hesitation in this report between the terms national minorities and visible minorities.

¹²⁶ HCI, *Cultural Diversity*.

¹²⁷ Conference on “Colourless screens”.

¹²⁸ Kriegel Blandine, *La violence à la télévision. Rapport à M. Jean-Jacques Aillagon, ministre de la Culture et de la Communication, (Violence on television. Report to the Minister of Culture and communication, Mr Aillagon)*, Paris, La Documentation française, 2002.

framework for categorising programmes, which was first implemented in 1996 and adjusted in November 2002. This classification frame currently consists of five categories of programmes depending on their potential harmful effects on young viewers. (See Table 16.)

Programmes within the categories two to five must be identified by a small icon appearing on television screens before or during their broadcast. Programmes in Category 4, including particularly violent movies and erotic movies, must be broadcast after 22.30. For programmes in Category 5, which are mostly pornographic movies, stricter regulations apply. They can only be broadcast on scrambled channels after signing a contract with the CSA, which sets up the maximum number of broadcasts permitted per year, and requires the channel to invest in movie production. In addition, these programmes can only be broadcast between midnight and 05.00 and viewers must enter a specific personal identification code for each programme.

Table 16. Categorisation of programmes in terms of suitability for young viewers

| Category 1 | Category 2 | Category 3 | Category 4 | Category 5 |
|--------------------------|--|--|--|---|
| Suitable for all viewers | Not suitable for viewers under the age of ten | Not suitable for viewers under the age of 12 | Not suitable for viewers under the age of 16 | Not suitable for viewers under the age of 18 |
| | Icon appearing at the beginning of the programme | Icon appearing during all the programme | Icon appearing throughout the programme | Icon appearing throughout the programme |
| | | | Can only be broadcast after 22.30 | Can only be broadcast on scrambled channels and between midnight and 05.00. PIN necessary to access each programme. |

Source: CSA¹²⁹

The implementation of this system largely relies upon the self-discipline and social responsibility of broadcasters and parents alike. Broadcasters have the responsibility to determine whether a programme is not suitable for young viewers and, if so, to identify the programme with the appropriate icon and to schedule it at the appropriate time. Parents are left with the responsibility of controlling their children’s behaviour and determining which programmes they are allowed to watch. Ideally, the identification of

¹²⁹ Information from the CSA website, available at http://www.csa.fr/themes/television/television_signalitique2.php (accessed 22 June 2005)

programmes with icons will serve to start discussions between parents and children about the nature and effects of television.

6.4 Advertising and sponsoring

In accordance with the TWF Directive, advertising time is limited on French television. For private broadcasters, the ceiling is 12 minutes per hour, with a maximum average of six minutes per hour on a daily basis. For public broadcasters the ceiling was previously the same as for private broadcasters, but it has been gradually lowered to eight minutes per hour.¹³⁰

Bans on the advertising of tobacco, alcohol and medical products, as well as guns and weapons, are also in accordance with the TWF Directive. In France, additional bans exist on the advertising of some other products or services, such as movies, books publishing (except for cable and satellite channels), retail stores and chains (except for local and cable and satellite channels). As of January 2004, print media are now allowed to advertise on television. The ban on retail stores' television advertising, which prevent huge companies such as Carrefour or Galeries Lafayette from reaching television audiences, was initially set up to protect regional dailies' advertising revenues. It is likely to be lifted by January 2007.

Regarding the content of television commercials, three mechanisms of control are in operation. First is the Office for Monitoring Advertising (*Bureau de vérification de la publicité* – BVP), which is an independent body jointly set up and financed by media, advertising agencies and advertisers. Based on the ethical norms recognised by the profession, the BVP provides opinions and recommendations on commercials before they are broadcast. In 2002, the BVP issued 12,403 opinions on television advertising spots, of which six per cent recommended changes.¹³¹ However, these recommendations are not binding¹³² and even if the BVP agrees to the broadcasting of an advertisement, the CSA or another party can still file a suit against broadcasters or advertisers. The BVP also runs a legal consultancy service.

Second, most television stations have an in-house department for screening commercials before they are broadcast. Finally, the CSA can carry out additional controls or request the withdrawing of commercials. On several occasions, the CSA has issued warnings to broadcasters about the representation of women and the role assigned to children in television commercials.

¹³⁰ Law on Freedom of Communication 2000, art. 15. Concerning the financial consequences of this provision, see section 4.2 of this report.

¹³¹ “Publicité et auto-discipline: rôle et mission du BVP” (“Advertising and self-regulation role and missions of the BVP”). Talk given by Joseph Besnainou, General Director of BVP at the conference “La semaine de la publicité”, (“The advertising week”), Paris, 24 to 27 November 2003.

¹³² Only ten recommendations out of some 13,000 issued by the BVP were not followed by television operators. OSI roundtable comment.

It is worth mentioning that the audience of television stations and their advertising market shares are not equivalent. Private television stations ride high in this respect. For example, TF1 reaches on average one third of the audience, but it takes more than 50 per cent of television advertising revenue. The gap is even more significant with M6, which attracts 22.2 per cent of the television advertising spending despite having only a 12.6 per cent audience share. This can be explained by two factors. First, the structure of the audiences. TF1, which enjoys a substantial audience of women between 18 and 49 years old, and M6, which targets a young audience, are more appealing to advertisers. Second, the limitation of advertising on public television stations has helped to increase the commercial television stations' advertising revenues.

Table 17. Audience and advertising market shares of the main terrestrial television channels (2003)

| Channel | Audience share (per cent) | Advertising market share (per cent) |
|--------------------|------------------------------|--|
| TF1 | 31.5 | 54.4 |
| France Télévisions | 39.5 | 28.9 |
| Canal+ | 3.7 | 2.2 |
| ARTE | 1.8 | None |
| M6 | 12.6 | 22.2 |
| Others | 10.8 | 0.1 |

Source: Médiamétrie, TNS¹³³

There have been very few cases of direct pressures from advertisers on television stations. In one notorious instance, Jacques Calvet, former CEO of the car manufacturer PSA (Peugeot Citroën), cancelled the company's commercials on Canal+ after he was mocked in an unpleasant manner on the station's show *Guignols de l'info* (the French equivalent of the *Spitting Image* show in the UK). Broadcasters are quite immune to pressure from advertisers for one basic reason. Due to the low number of national television channels and, to a lesser extent, the legal limits on advertising time, the demand for television commercials far exceeds the airtime that broadcasters can supply. If an advertiser cancels its airtime purchase, it will be easily replaced by another one.

By contrast, surreptitious advertising, by which brands or products are advertised outside the paid advertising slots, has been a constant issue in French broadcasting. The CSA regularly issues reminders and warnings to television stations, public and private alike, for breaching the decree of 27 March 1992¹³⁴ which prohibits

¹³³ Information from the Médiamétrie website (ratings), available at <http://www.mediametrie.fr>; TNS Media Intelligence website, available at http://www.tnsmediainelligence.com/AdexReport_200506.pdf (both accessed 14 August 2005).

¹³⁴ Decree 92-980 of 27 March 1992 on advertising regulations.

surreptitious advertising, including the mention by programme hosts of their personal activities, such as books and theatre plays. Some of the recent cases concerned the promotion of a sports daily during the broadcast of a football game on TF1,¹³⁵ or the exaggerated promotion of a travel agency in a story presented on France 2 newscast.¹³⁶

The CSA also had to cope with some cases of so-called “product placement”, a practice consisting of showing specific brands or products within fiction programmes. Regarding this matter, the CSA has decided to follow “a case by case approach”,¹³⁷ which means that it studies each litigious programme to appreciate if the product placement is justified or not.

While in the past the CSA’s approach on advertising could be considered as stricter than the provisions laid down the TWF Directive, it is now in line with the European Commission’s interpretative communication on advertising, issued on 28 April 2004.

Another less important issue in television advertising concerns the sound volume of commercials. Following complaints by viewers, the CSA has repeatedly found that television commercials were broadcast at a higher sound level than other programmes.¹³⁸

7. EUROPEAN REGULATION

The TWF Directive of 1989 has been transposed in French law.¹³⁹ Regarding advertising, it must be noted that French legislation is being changed to comply with the principle of free provision of services within the EU. A decree passed on 7 October 2003¹⁴⁰ started the progressive abolishment of bans on advertising of some sectors (see section 6.4).

The provisions added to the TWF Directive in 1994 have also been incorporated into French legislation. However, it is only recently that the decree needed to implement the free access requirement for major events, such as the football World Cup or the Olympic Games, was published.¹⁴¹

¹³⁵ CSA plenary meeting of 8 March 2005.

¹³⁶ CSA plenary meeting of 17 December 2004. In a previous case, on 4 November 2003, France 2 received a €60,000 fine for a story focusing on a food brand.

¹³⁷ CSA, *La Lettre du CSA*, monthly newsletter, No. 181, February 2005.

¹³⁸ The technical conditions of television reception are one of the few matters for which viewers can file complaints with the CSA.

¹³⁹ Notably by the following decrees: Decree No. 90-66 of 17 January 1990 (programming quotas); Decree No. 92-280 of 27 March 1992 (advertising regulations); and Decree No. 2001-609 of 9 July 2001 (production quotas).

¹⁴⁰ Decree No. 2003-960 of 7 October 2003 allowing print media to advertise on TV.

¹⁴¹ Decree No. 2004-1392 of 22 December 2004, concerning the broadcasting of major events.

While France had been lagging behind in the process of implementing other directives, the Law on Electronic Communications 2004 has now transposed into French legislation EU Directive 2002/19/CE¹⁴² (the Access Directive) and EU Directive 2002/22/CE¹⁴³ (the Universal Service Directive) – known as the “Telecoms package”. While achieving the full liberalisation of telecommunications services, this law establishes a clearer definition of responsibilities for the CSA and the ART, and reinforces the powers of the CSA.

Overall, French governments have not had any major difficulty in incorporating the regulatory framework designed by European authorities. However, they have constantly demonstrated some resistance to the full market approach of the European Commission. In an attempt to protect both its domestic cultural industries and its public broadcasting system, France has tended to implement European regulations and directives in a stricter fashion and to set up specific obligations, restrictions or bans whenever possible. Among these are the quotas for programmes in French language, the obligation to use the French language in all programmes,¹⁴⁴ the advertising bans on some products or activities, and the advertising limits on public channels.

It is worth noting that the Commission has recognised that the financial assistance provided to France 2 and France 3 in the forms of capital contributions and investment grants, constituted admissible State aid on account of the channels’ public service obligations.¹⁴⁵

As a major, more structural revision of TWF Directive now seems unavoidable, the most important question is whether French Governments will in future be able to adapt European regulations to the parochial peculiarities of the French system, while still maintaining its core values and logic. This is why several issues are critical to the French authorities in the revision of the TWF Directive.

The first is the definition of audiovisual works. The CSA’s current definition is narrow,¹⁴⁶ while the EU definition is more generic. If the revision imposes a significantly looser definition, French public authorities fear that the quota system

¹⁴² Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), L108/7, 24 April 2002.

¹⁴³ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services, published in the (Universal Service Directive), L108/51, 24 April 2002.

¹⁴⁴ Law No. 94-665 of 4 August 1994, concerning the use of French language (known as the Toubon Law). This law added a new article (art. 20-1) to the Law on Freedom of Communication 1986, which makes the use of French mandatory in all audiovisual programmes, including commercials. The only exception is for movies and musical programmes.

¹⁴⁵ Decision of the European Commission, 10 December 2003.

¹⁴⁶ They are defined as programmes that do not belong to the following categories: films, newscasts, entertainment, games, talk-shows, sports, advertising and telemarketing.

would no longer make sense, as more programmes, not only television fictions, could be included in the quota requirement. The second is a clear determination of which national authority is responsible for regulating television services offered in several countries. Here the Government is concerned about broadcasters who bypass national regulations by transmitting their television service into France from abroad. The third concerns the full recognition of a public service in broadcasting, which would give the public authorities the possibility to fund or support public broadcasters. Finally, copyright and intellectual property issues are of paramount importance to the French Government as they affect the conditions under which audiovisual works can be marketed.

8. THE IMPACT OF NEW TECHNOLOGIES AND SERVICES

The implementation of new communication technologies has been a difficult process in France. By contrast with some other European countries, and despite an ambitious plan launched in 1982, only 16 per cent of French households subscribe to cable television. Satellite reception has only developed in recent years and is doing just a little better than cable. In April 2005, France launched the first stage of Digital Terrestrial Television (DTT). Strongly backed by the Government and the CSA, the DTT remains in the long-term an uncertain project due to an unclear business plan and the mounting competition from ADSL as a television medium.

8.1 French new media policy over the past two decades

Before addressing the challenges for broadcasting raised by new technologies and services, a brief account of French public policies on new media (cable and satellite) is necessary. These policies faced various problems and, in the end, did not produce the expected outcomes. This is certainly something that policy makers, as well as French communication groups, should keep in mind when facing the current new technological developments. The memory of the past is likely to affect the approach to communications in the future.

Overall, France's new media policy over the past two decades has failed in many respects. Most of the objectives set up in the 1980s – such as fostering the domestic high-tech industry, developing a strong programming industry, promoting innovative and cultural uses of television through interactive community networks – have not been fully achieved. Instead, cable systems are increasingly dominated by foreign interests, the satellite industry suffers from costly competition between two systems, and most French television channels on cable and satellite are not profitable due to an insufficient subscriber base. To this distressing landscape can be added the collapse of the Vivendi group, which engaged in an international convergence strategy that ended in a huge financial disaster.

Table 18. Cable and satellite penetration in France (1992–2002)

| | Households (millions) | | | | | | | | | | |
|-----------------------|-----------------------|------|------|------|------|------|------|------|------|------|------|
| | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
| Cable subscribers | 1.00 | 1.25 | 1.60 | 1.85 | 2.13 | 2.34 | 2.58 | 2.82 | 3.00 | 3.21 | 3.60 |
| Satellite subscribers | 0 | 0.10 | 0.22 | 0.30 | 0.45 | 1.08 | 1.65 | 2.27 | 2.57 | 2.95 | 3.40 |

Source: Aform,¹⁴⁷ cable and satellite operators

Cable policy

After enforcing a restrictive policy during the 1960s and 1970s that limited the use of cable to retransmitting free-to-air channels, the Government launched an ambitious “Cable Plan” in November 1982, under the direction of France Télécom, then a public administration. At the time, the objective of the plan was to wire six million households by 1992 and to promote the most innovative systems, based on optical system and two-way architecture.

In 1986, private cable operators were permitted to enter the market and more conventional systems, based on coaxial copper and a tree design, were implemented. In addition to France Télécom, three main cable operators emerged, all subsidiaries of public utilities companies:¹⁴⁸ Lyonnaise Communication (Suez), ComDev (Caisse des dépôts et consignations) and Compagnie générale de Vidéocommunication (Compagnie générale des eaux, which eventually became the Vivendi group). These boosted cable television attractiveness and penetration by creating new thematic channels.

Nonetheless, while 8.8 million homes were wired by the end of 2003, only 3.6 million households had actually subscribed to cable systems (see Table 18). The gap between these two figures means that many households that could technically get access to cable, choose not to subscribe. This can be explained by several factors – channels supplied on cable do not match demand, rates are too high, cable was not developed in the right cities and cable suffers from the competition of satellite (and possibly from other communication devices such as mobile telephones, DVDs and Internet services).

The Cable Plan aimed at fostering national players able to compete with cable operators abroad. The result, however, is that the cable market has been increasingly

¹⁴⁷ Information from Aform (Association française des opérateurs de réseaux multiservices – French association of multiservices networks operators), available at <http://www.aform.org/> (accessed 8 August 2005).

¹⁴⁸ The interest of public utility companies in cable systems was linked to three factors. These companies had long established close relationships with local authorities, which initially played a central role in cable development. They saw cable systems as a logical extension of their traditional business (networks management). Finally, these companies had both the economic and expertise resources to undertake and finance long-term investments.

penetrated by foreign cable operators. In July 2004, the cable operator Noos was bought by the American UPC and, in December 2004, the British investment fund Cinven and the Belgium-Dutch cable operator Altice reached an agreement with France Télécom and Canal+ Group to acquire their cable television units.¹⁴⁹

Table 19. Main cable operators in France (as of 31 March 2004)

| | France Telecom Câble (now controlled by Cinven and Altice) | Numericâble (now controlled by Cinven and Altice) | NOOS (bought by UPC) | UPC France | Total (including other operators) |
|--|--|--|----------------------------|---------------|--|
| Cities operated | 212 | 193 | 146 | 664 | 1641 |
| Households wired | 1,520,164 | 2,314,539 | 2,967,362 | 1,393,100 | 8,879,111 |
| Households subscribers | 862,651 | 825,425 | 1,123,135 | 576,500 | 3,751,655 |
| Households subscribers with Internet service | 80,000 | 76,000 | 201,327 | 23,000 | 416,838 |

Source: Aform¹⁵⁰

Satellite policy

In the 1980s, France made an unfortunate attempt to launch direct satellite reception with the TDF1 project, which was run by TDF, the public company in charge of television transmitters. This project failed for several reasons. It used costly and unreliable technology, did not provide sufficient channel capacity, and was based on a standard D2 Mac (supposedly a smooth introduction to high-definition TV) which required viewers to purchase costly additional devices.

TDF1 was soon replaced by two private ventures: TPS, jointly set up by TF1 and M6, and initially France Télévisions which later dropped out; and Canalsatellite, set up by Canal+ group with Largardère Group. Using the satellites and facilities operated by Astra or Eutelsat, TPS and Canalsatellite basically provide the same package of channels as cable systems. While it was expected that satellite reception would primarily reach rural zones, it appears that many satellite subscribers live in suburban

¹⁴⁹ In the new group formed as a result of the transaction, Cinven will hold a majority stake of 50.01 per cent, with Altice holding 10.01 per cent and France Télécom and Canal+ each holding 19.99 per cent. France Télécom, Press Release of 21 December 2004, Paris, available at http://www.francetelecom.com/en/financials/journalists/press_releases/CP_old/cp041221.html (accessed 30 April 2005).

¹⁵⁰ Information from Aform, available at <http://www.aform.org/> (accessed 8 August 2005).

areas. This phenomenon can be explained by the inadequate offers and prices of cable operators in suburban areas, which have a lot of public housing. More importantly, immigrants, who often live in suburbs, can only access television channels from their home country through satellite (especially Eutelsat which provides many channels from Arabic speaking countries).¹⁵¹

8.2 The future of broadcasting: between DTT and ADSL

The initial plans for digital terrestrial television (DTT) were laid down in the Law of 1 August 2000. At this time, it was decided that the CSA would play a major role in developing this new technology, being responsible for setting up the timetable for DTT and selecting the channel operators.

DTT services are grouped within six different digital multiplexes. Each is operated by a specific company and comprises free and Pay-TV services. One multiplex is reserved for the public broadcasters.

In July 2001, the CSA announced a tender for national DTT services with a deadline of 22 March 2002. On 23 October 2002, after a series of hearings, the CSA selected eight different operators to supply 23 private DTT channels.¹⁵² After signing an agreement with the CSA, these operators were granted licences for their DTT operations on 10 June 2003. On the same day, the CSA also allocated DTT frequencies to the public broadcasters.¹⁵³

However, following a complaint by TF1, on 20 October 2004 the Conseil d'État (the French high administrative court) cancelled the licences granted to Canal+, one of the eight selected operators, as it found the station in breach of cross-ownership

¹⁵¹ Contrary to TPS and Canalsatellite, Eutelsat provides many channels that have not been licensed by the CSA or in another EU country. The Law on Electronic Communications 2004 entitles the CSA to file a complaint with the Conseil d'État (the French high administrative court) to require that a satellite operator stop servicing channels which breach some basic principles such as public order, protection of children, non discrimination and racism or sexism. With Eutelsat being, since July 2001, a French registered company (and no longer an intergovernmental organisation), the company is likely to comply with the Law on Electronic Communications 2004.

¹⁵² In addition to TF1, Canal+ and M6, which are already providing free-to-air channels, five new operators are entering the television market through DTT. They are AB Group, Bolloré Group, Lagardère Group, NRJ Group and Pathé Group.

¹⁵³ It should be remembered that under the Law of on Freedom of Communication 1986, public broadcasters are not licensed by the CSA. In addition, whenever it is demanded by the Government, they have priority access to frequencies. In the present case, on 16 April 2002 the Minister of Communication officially demanded that six DTT channels be reserved for public broadcasters.

regulations.¹⁵⁴ A new tender was consequently launched by the CSA for the cancelled licences, the results of which were announced on 19 July 2005.¹⁵⁵

DTT was launched on 31 March 2005. In addition to the existing terrestrial channels (France 2, France 3, France 5/ARTE, TF1, M6)¹⁵⁶ seven other free channels are offered:

- Direct 8 (Bolloré Group) – small generalist channel airing live programmes covering large-scale events, entertainment, film, culture, discovery of new talent;
- W9 (Edi TV, a subsidiary of Métropole Télévision) – music channel;
- TMC (Pathé group) – generalist channel (already provided on cable and satellite systems) with a focus on entertainment, leisure and local programming;
- NT1 (AB group) – generalist channel, with a focus on family entertainment and fiction;
- NRJ 12 (NRJ group) – small generalist and “trans-generational” channel, targeting viewers between 11 and 49 years of age, with music video-clips, current affairs programmes and documentaries, live radio studio broadcasts, games, television series;
- LCP (La chaîne parlementaire) – French Parliament, combining the existing channels provided by the National Assembly and the Senate;
- France 4 (France Télévisions) – intended to be a sort of selection of France Télévisions’ best programmes such as live shows, movies, fiction, music.

In its first stage, DTT is planned to reach roughly 35 per cent of the population. When fully implemented, it is expected to reach between 80 per cent and 85 per cent of the total number of viewers.¹⁵⁷ However, the future of DTT in France remains uncertain for a number of reasons.

First, the politics of DTT are still complex. Although it is part of the digital project, the commercial broadcaster TF1 group opposed DTT for many months. Its official reason was related to technology. TF1 claimed that the MPEG2 standard which had been adopted for French DTT was about to become obsolete and that the more

¹⁵⁴ When the licences for DTT services were granted by the CSA in June 2003, the same company could only hold, directly or indirectly, five DTT licences. The Conseil d’État found that Canal+, along with its partner Lagardère Group, held seven licences. Since then, the Law on Electronic Communications 2004 has increased to seven the number of DTT licences that a company may hold.

¹⁵⁵ CSA, press release No. 584. Canal+ got back its cancelled licences.

¹⁵⁶ With France 5 now broadcasting for 24 hours a day and ARTE from 15.00 to 03.00.

¹⁵⁷ Coverage of the north and east of France will be more difficult since this requires coordination with neighbouring countries to adapt the frequencies management plan.

flexible and powerful MPEG4 standard should be used. With the decision to adopt the MPEG4 standard for pay DTT services taken by the Prime Minister on 23 December 2004, TF1 changed its position. It is nevertheless obvious that TF1 does not welcome newcomers to the television market and fears the negative impact on its revenues that new competitors will cause. Some pending issues – such as the possible establishment of a cooperative structure in order to market subscriptions to pay services or the coverage of the last 20 per cent of the population – may generate conflicts and hamper the development of DTT.

Second, it is unclear how the new channels will recoup their investments – in programmes, in promotion activities and also the costs of upgrading the networks of transmitters so that they can carry digital signals. While thousands of viewers acquired the decoder needed to receive free digital programmes,¹⁵⁸ nobody knows whether there will be sufficient demand for pay-TV services, especially as many of these services are already available on cable and satellite. It might be that these two conduits have already absorbed most of the demand for Pay-TV services.

Television on ADSL

The ADSL might turn out to be a strong competitor in the broadcasting market. After a slow beginning, the number of Internet users has dramatically increased since 1998. By the end of 2004, it is estimated that about 25 million French individuals accessed the Internet (see Table 20). This growth is linked to the fierce competition of access providers that pushed down the connection rates. The development of ADSL, which enables high speed Internet on regular telephone lines, is another factor boosting use of the Internet. It is now possible to get broadband access to the Internet for about €30 a month and about one third of French Internet users were using broadband connection at the end of 2004.

Table 20. Number of Internet users in France (1995–2004)

| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|--|------|------|------|------|------|------|------|------|------|------|
| Number of Internet users (millions) ¹⁵⁹ | 0.15 | 0.5 | 1.4 | 3.1 | 5.4 | 8 | 12.1 | 16.6 | 21.4 | 25 |

Sources: Ministry of Industry, Dataquest, Médiamétrie.

After an experimental phase, several ADSL television services began to be marketed in December 2003. Television over the Internet may ruin the development of DTT for

¹⁵⁸ At the time of writing, no figures were available on the number of decoders bought (for prices ranging from €60 to €200, depending on the model).

¹⁵⁹ Definition of user: any individual over 11 years old who accessed the Internet during the last month prior to the survey.

several reasons – a wide consumer base is already available, it does not need huge infrastructure investments, it may prove to be especially appealing to young people, it will give access to television services from all over the world, not only to French television services, and it fits well the growing individualisation of television consumption (see section 2.2).

Even though most channels currently available over the Internet have already been licensed by the CSA, a full legal framework for e-television remains to be drawn up. As a first step, the Law on Electronic Communications 2004 has extended the CSA's responsibility to all broadcasting services, regardless of the medium. The main issue here is not so much the traditional television services that are already provided terrestrially or on cable and satellite, but the hundreds of video services originating from individuals or from outside France. Nobody really knows how these can be regulated.

9. CONCLUSIONS

External versus internal pluralism

The French broadcasting system is unique because of TF1's dominant position. Although the system formally looks like a dual system divided equally in terms of number of national television stations into a public and a private sector, at the operational level it is dominated by a single private company. The situation of low external pluralism – which was certainly not designed by law or even planned by politicians when the Law on Freedom of Communication 1986 and subsequent laws were passed – can be explained by TF1's ability to provide programmes that consistently score high in the ratings. Politicians get along quite well with this situation. They know they can easily reach most of the population through TF1, especially as TF1 has the obligation to give equal airtime to the parliamentary majority and the opposition. In some ways, they prefer TF1's domination to a more competitive, and thus more unstable, market, which would require more costly and complex strategies for communication. However, advertisers are not fully satisfied with this situation, which gives TF1 a sort of monopoly position when selling time for commercials.

For some, TF1's dominant position is prejudicial to the diversity and pluralism of programmes. This is why it is necessary to increase competition within the system. One solution already proposed is the privatisation of one public channel, which would create a more balanced private broadcasting market and let the public television stations focus on their core missions. This project has not been endorsed by successive governments. It is also not sure that further reducing the public broadcasting system would be well accepted by French viewers, not to mention the opposition from TF1 itself. Which French group would be strong enough to take over a major television channel is also unclear. Another smoother option, which is now being advocated by the

CSA, would involve taking advantage of the development of digital terrestrial television to attract new private actors into the broadcasting system.

For other observers and players, the issue is not the degree of competition on the television market. Market forces can push even diverse owners toward providing similar content if a large part of the audience prefers the same type of programmes.¹⁶⁰ Diversity is often best ensured through an appropriate set of regulatory measures aiming at internal pluralism. This is the dominant approach in France.

The identity crisis of public service broadcasting

Apart from recurrent financial difficulties and multiple organisational changes, French public service broadcasting has experienced a crisis of identity for many years now. Public television stations are caught in a double and contradictory bind – while being given public service missions and very exalted cultural aims, they are at the same time required to compete with private channels.

The public broadcasters are required to be profitable and are continuously compared to the private channels in terms of ratings, economic performance or professional management. However, their resources are limited. They cannot control the source of their income (which is set by Parliament) and part of the population is reluctant to pay a licence fee, and their costs are increased by specific regulations. When public television stations schedule programmes similar to those of private television stations in an attempt to win higher ratings, they are criticised for “going commercial” and not defending the highest standards of culture, or not offering diverse programming to viewers. When they schedule more demanding and highbrow programmes to highlight their educational spirit or to foster the quality of public debate, they are criticised for being elitist, boring and spending too much money on very few viewers.¹⁶¹

To resolve this double bind, it is necessary to clarify what public service means in broadcasting. Practically, there are two competing definitions. One is functional and relates to goals, needs and obligations. The other is organic and focused on means, equating public service with State-owned stations. The Minister of Communication, François Léotard, was referring to the former definition when he stated in 1986 that there was no real justification for State-owned stations and that private operators could

¹⁶⁰ For example, assume that two thirds of the audience like programming type A, 20 per cent like type B, and 14 per cent like type C. In such a situation, three competitors tend to offer the same type of programming A in the hope to get a 22 per cent share of the audience, which is more than they could get by offering either programming B or C. See: Owen Bruce M. and Wildman Steven, *Video Economic*. Cambridge, Harvard University Press, 1992, pp. 99–100. Baker C. Edwin, *Media, Markets, and Democracy*. Cambridge, Cambridge University Press, 2002.

¹⁶¹ Examples of this double bind can be found in the recent book by Hervé Bourges, former head of TF1 (before its privatisation) and former chair of the CSA: Bourges Hervé, *Sur la télé: mes quatre vérités, (On TV: my four truths)*, Paris, Ramsay, 2005.

very well meet public service obligation.¹⁶² Nevertheless, State-owned stations have been maintained, with only a few additional missions or requirements. From a viewer's perspective, there are only minor differences between public and private broadcasters. Indeed, it has even been said that public broadcasters can be recognised by three main features – no commercials during films, Catholic mass on Sundays, and boring candidates' broadcasts during election periods.

To advance any further in the debate on public service broadcasting, it is necessary to know much better what people really expect from television, and also how they actually assess programmes and how their expectations and evaluations can be accurately measured. This means dealing with many contradictions and conceptual difficulties. What viewers say about television and how they behave in front of the television set are often two different things. Among those who say they dislike advertising, many prefer commercial television. Although many would admit that ratings do not reflect social demand, there are very few alternative indicators.

A contract-based regulation

One interesting feature that emerged as the CSA became a full player in the field has been the development of a style of regulation that can be termed as contract-based. Within the general regulatory framework laid down by the law, pluri-annual contracts are signed by broadcast operators and the regulatory agency. Through these contracts, specific obligations can be assigned to operators and/or operators can commit themselves to achieve specific objectives.

This style of regulation allows legal obligations to be implemented flexibly, according to the capacities of each operator. Yet, this style of regulation is only efficient under conditions that are not perfectly met in France.

First, there is not a complete symmetry in the relationship between private broadcasters and the regulatory agency, on the one hand, and public broadcasters and the regulatory agency on the other. The regulator's control over public television stations is shared with the Government, which sets some of the obligations on public broadcasters. In addition, unlike private broadcasters, public broadcasters are not fully autonomous since they do not control their financing and spending. They are not solely accountable to the regulator, but also to political authorities.

Second, contract-based regulation requires some equality of forces between the regulator and the regulated parties. When the regulator in charge of an industry has not enough resources, there is a risk of capture by the industry. In France, it is clear enough that the regulatory agency is not adequately equipped, in terms of staff and

¹⁶² Vedel Thierry and Bourdon Jérôme, "French Public Service Broadcasting: From Monopoly to Marginalization?" in Avery Robert (ed.), *Public Service Broadcasting in a Multichannel Environment*. White Plains, NY, Longman Inc., 1993, pp. 29–51.

technical expertise, to engage with broadcasters on an equal basis.¹⁶³ More importantly, for contract-based regulation to be socially satisfying it is necessary for all parties concerned to be involved, and especially the viewers. If not, the contract-based regulation quickly tends to focus on business concerns only. Again, this condition is not met in France.

Public participation in broadcasting regulation

In France, citizens' participation in broadcasting regulation is very low. Citizens are rarely involved in the CSA's decision-making process. Hearings are often closed to the public and the CSA's action mainly involves experts and professionals. Viewers are not represented in the governance structures of the public broadcasters.¹⁶⁴ Private broadcasters have not done any better. If they occasionally hold screening committees with viewers, they tend to consider that the market is in itself a democratic medium and that viewers vote with their remote control. Programmes that cannot secure an audience are replaced.

While it is certainly desirable to establish by law new opportunities for citizen participation in broadcasting regulation, it is also necessary to enforce the existing provisions allowing for such participation.¹⁶⁵ Unfortunately, at present there is only one active association of viewers, and even this has such a modest membership that it is not considered sufficiently representative to participate in regulation. To break this vicious circle (low membership = no influence = low incentive to join), a pro-active policy is needed. Viewers' associations could be either pushed, through free airtime on television or financial support from public authorities, or pulled, by being mandatory in the legal procedures for broadcasting.¹⁶⁶

¹⁶³ This point is challenged by experts and industry insiders. Some participants at the OSI roundtable, including former members of the CSA, agreed with this opinion, but other participants considered that the CSA has enough powers to monitor broadcasters' activities. OSI roundtable comment.

¹⁶⁴ In addition, the Advisory Board for Programming (to be composed of 20 individuals chosen from among television viewers), which was laid down by the Law of 1 August 2000, is yet to be established (see section 4.3).

¹⁶⁵ Article 42 of the Law on Freedom of Communication 1986 states that trades' union branches in broadcasting, the National Council for regional cultures and languages, family associations, or viewers associations which consider that television stations do not comply with their obligations may ask the CSA to take action.

¹⁶⁶ OSI roundtable comment. A few participants in the roundtable strongly disagreed with this, arguing that only Parliament is fully representative of citizens (and hence of viewers). While Parliament's role in setting up the general goals and principles for broadcasting should be maintained, it has to be recognized that the everyday regulation of broadcasting involves in practice many interest groups and that a better representation of viewers would make this process more pluralistic.

10. RECOMMENDATIONS

10.1 Media policy¹⁶⁷

Legislation

1. The Government should initiate a major editing and codification of the Law of 30 September 1986 on Freedom of Communication as modified by dozens of subsequent laws, in order to make the audiovisual legislation comprehensible by all citizens and businesses.¹⁶⁸
2. The Government should use the framework of this editing and codification process as an opportunity for organising public debate on the goals and social role of broadcasting.
3. The High Council for Broadcasting (CSA) should provide a user-friendly presentation of audiovisual legislation, including a clear distinction between the main and general provisions, and those with technical purposes.

10.2 Regulatory bodies

Public consultation

4. Parliament should modify the Law of 30 September 1986 on Freedom of Communication, in order to make citizens' participation mandatory when broadcasters' licences are to be renewed by the CSA.
5. The High Council for Broadcasting (CSA) should, instead of waiting for comments from the public, request such comments, and feedback on various matters that it is going to decide, especially during the annual review of broadcasters programming activities.
6. The State authorities should provide financial assistance for the expansion of viewers' associations, so that they can enlarge their membership.

¹⁶⁷ OSI Roundtable comments. Some participants at the roundtable suggested additional recommendations, often more structural and economic. These included mention the existence of a public service for broadcasting in the French constitution; ban on television advertising during specific parts of the days; and the introduction of a tax on the use of frequencies. However, this section only proposes those recommendations that could be quickly implemented and do not require a radical reorganisation of the broadcasting system.

¹⁶⁸ OSI roundtable comment All participants in the roundtable agreed that, in its present form, this law is very difficult to understand. For example, even experts have difficulties mastering the complexities of the cross-ownership regulations (see section 5.2) in their current formulation. Moreover, some participants noted that the readability of laws has become a requirement in democratic societies that promote transparency.

7. The State authorities should also allocate free airtime to viewers' associations, to enable them to present their activities and recruit new members.
8. The Government should publish the decree needed to implement Article 46 of the Law of 30 September 1986 on Freedom of Communication, which sets up an advisory body on programming within France Télévisions, composed of 20 randomly chosen viewers.

Monitoring

9. The State authorities should promote the creation of an independent structure or office –for instance within universities – to monitor broadcasters, with the aim to encourage a civic culture for broadcasting. This independent office should complement the work of initiatives started recently by private groups.¹⁶⁹ It should develop monitoring methodologies and indicators, develop and maintain permanent databases on programmes and broadcasters, and undertake in-depth and cross-national studies. It could also host every two years a general conference on the state and future of French broadcasting, to which all interested parties would be invited to contribute.

¹⁶⁹ Such as the Observatoire français des médias (The French observatory of medias) – see section 5.3.

ANNEX 1. Tables

Table A1. Main laws and regulations governing French broadcasting

| Date of law or regulation | Main provisions |
|---|---|
| Law of 30 September 1986 (<i>Law on Freedom of Communication 1986</i>) | <ul style="list-style-type: none"> • Puts a definitive end to the State monopoly on broadcasting. Sets up a licensing process for private broadcasters. • Replaces the Haute Autorité by the CNCL as the regulatory agency for broadcasting. The CNCL also appoints the chair persons of public channels. • Opens the privatisation process of the first public channel TF1. • Establishes the principle of programming quotas for feature films, European and French language audiovisual works. |
| Law of 17 January 1989 | <ul style="list-style-type: none"> • The CNCL is replaced by the CSA, which gets additional enforcement powers. The CSA sets up private broadcaster's obligations through contracts. |
| Law of 2 August 1989 | <ul style="list-style-type: none"> • Establishes a single top management for the two public channels Antenne 2 and FR3. |
| Decrees of 17 January 1990 | <ul style="list-style-type: none"> • Programming quotas: 50 per cent for French language audiovisual works and 60 per cent for European Union works. Production quotas. |
| Law of 18 January 1992 | <ul style="list-style-type: none"> • Changes programming quotas: from 50 per cent to 40 per cent for French language audiovisual works, 60 per cent for European audiovisual works (versus EU previously). |
| Decree of 27 March 1992 | <ul style="list-style-type: none"> • Sets up regulations for advertising and sponsorship on television: time limitations, banned contents. |
| Law of 1 February 1994 (<i>Carignon Law</i>) | <ul style="list-style-type: none"> • Grants the CSA with the same enforcement powers for public broadcasters as for private broadcasters. • Changes cross-ownership rules (maximum ownership in a broadcaster: 49 per cent versus 25 per cent previously). • Quotas for radio stations adjusted in function of their format. |
| Law of 1 August 2000 | <ul style="list-style-type: none"> • Establishes France Télévisions as a holding company. CSA powers are increased. • The process of allocating frequencies is modified. • First plan for introduction of the DTT. |
| Decree No. 2001-609 of 9 July 2001 | <ul style="list-style-type: none"> • Defines the contribution of broadcasters to the production industry and sets up production quotas |
| Law of 31 December 2003 (<i>Law on the Public Service Obligations of Telecommunications and France Télécom 2003</i>) | <ul style="list-style-type: none"> • Puts an end to the monopoly that TDF held on public channels' transmissions. • The limit of 8 million habitants for cable systems operators is abolished. |
| Law of 21 June 2004 | <ul style="list-style-type: none"> • Providers and hosts must exert a greater control on the content of Internet services. • Local authorities can provide telecommunications services (including cable systems) on their own when private operators fail to do so. |
| Law of 9 July 2004 (<i>Law on Electronic Communications 2004</i>) | <ul style="list-style-type: none"> • Reinforcement of CSA's responsibilities: CSA oversees all TV services whatever <i>conduit</i> is used. Radio and TV services on the Internet must comply with the same obligations as channels provided on cable or satellite. • The range of sanctions by the CSA is adjusted. • Modification of must-carry rules for cable and satellite operators. • Provisions to encourage local television and DTT. |

Source: Compiled by Th. Vedel

Table A2. General broadcasting obligations of the national television operators – as established by their terms of reference (*cahiers des charges*), for public broadcasters, or licensing contracts, for private broadcasters.

| | Sources of obligations or conventions | Broadcasting obligations |
|----------------------|---|--|
| France 2 France 3 | <p>Approved by: Decree No. 94-813 of 16 September 1994; modified by Decree No. 96-239 of March 25 1996; Decree No. 98-348 of 6 May 1998; Decree No. 99-1229 of 31 December 1999; Decree No. 2001-142 of 14 February 2001; Decree No. 2002-750 of 2 May 2002.</p> <p>Completed by: CSA's deliberation of 26 November 2002 (time schedule and programming respect); CSA decision No. 2003-443 of 17 June 2003 (protection of youth)</p> | <ul style="list-style-type: none"> • Public service continuity in case of strike • Programmes towards the deaf • Government's allocutions • Electoral campaigns • Parliamentary debates • Regional assembly debates • Professional organisations and trade-unions communication • Religious programmes • Programmes for the main regional languages • 12 messages for a national cause • Road security • Consumers' information • Programmes aimed at foreign populations • Regional and local programmes • Lyrical, dance and theatre programmes (at least 15) • Musical programmes (at least 2 hrs per month) • Songs in French should have the priority • Scientific programmes • TDF broadcasting |
| France 5 | <p>Approved by: Decree No. 95-71 of 20 January 1995; modified by Decree No. 2002-751 of 2 May 2002.</p> <p>Completed by agreement with CSA of 25 October 1995; CSA decision No. 2003-444 of 17 June 2003 (protection of youth)</p> | <ul style="list-style-type: none"> • Service public continuity in case of a strike • 12 messages for a national cause each year • Programmes promoting access to knowledge, education and culture, particularly oriented towards youth • Programmes on employment and formation • Programmes on good citizenship, social life and foreigners' insertion • Programmes for children and teenagers • TDF broadcasting |
| ARTE | <p>Franco-German Treaty of 2 October 1990. Contract of 30 April 1991</p> | <ul style="list-style-type: none"> • Programming rules defined by the French and German shareholders • Mainly first broadcasting works • Majority of European TV series and movies • No movies on Wednesday and Friday before 22.30, on Saturday, on Sunday before 20.30 • Deadline of broadcasting for movies: three years after exploitation visa and two yrs in case of co production |

| | | |
|------------|---|--|
| TF1 | Licensing contract with CSA of 29 October 2003 | <ul style="list-style-type: none"> • 24h/24 broadcasting • Generalist channel • Subtitled programmes for the deaf (at least 1,000 hours per year) • two complete programmes of news per day + current affairs programs (at least 800 hrs per year) Programmes for the youth (at least 1000 hrs per year) • 2/3 of French original expression audiovisual works • Promoting cinema halls: no more than 192 movies broadcast per year |
| M6 | Licensing contract with CSA of 10 March 2004 | <ul style="list-style-type: none"> • 24h/24 broadcasting • Generalist channel • Musical programmess (30 per cent of annual programming, a majority of French original expression songs) • musical programs in high audience rate periods • Co-production and broadcasting of 150 video music clips by French speaking artists including 30 from new artists • Majority of European animation works • Local broadcasting • No more than 192 movies broadcast each year, no more than 144 movies broadcast between 20.30 and 22.30 • In 2006 should broadcast 1,000 hours of subtitled programs • Childhood and teenage protection |
| Canal Plus | Licensing contract with CSA of 22 November 2003 | <ul style="list-style-type: none"> • At least 18 hrs/24 broadcasting • Main programming: cinema and sports • Non encrypted broadcasting: 6hrs/day max • 500 movies/year between 12.00 and 24.00 and 150 movies max between 0h and 12h • Movies can be broadcast up to seven times over a three week period • No movie on Wednesday (13.00-21.00), on Saturday (18.00-23.00), on Sunday. On Friday (18.00-23.00) one million + entrances movies should not be broadcast the first year of exploitation • 75 per cent of daily broadcast is encrypted • Promoting of cinema hall movies |

Source: Compiled by Th. Vedel

Table A3. Programming obligations for national terrestrial television channels (2002)

| | TF1 | F2 | F3 | C+ | F5 | M6 |
|---|---|-------------------------------|-------------------------------|--------|--------|---|
| Total movies broadcast per year | 192 | 192 | 192 | 500 | None | 192 |
| Total movies broadcast at prime time (per year) | 144 | 144 | 144 | | None | 144 |
| Total movies from EU/FL (minimum) (per cent) | 60/40 | 60/40 | 60 /40 | 60 /40 | None | 60 /40 |
| Audiovisual works from EU/FL (minimum) | | 60/40 | 60 /40 | 60 /40 | 60 /40 | None |
| EU or FL audiovisual works first run | 120h (starting between 20:00 and 21:00) | 96h | 96h | None | None | 100h |
| Newscasts (minimum hours) | 800h | None | None | None | None | None |
| Youth programmes (minimum hours per year) | 1,000h (incl. 50h documentaries) | None | None | None | None | None |
| Music programmes (minimum hours) | None | 2h/month (incl. 16h concerts) | 3h/month (incl. 16h concerts) | None | None | 30 per cent of total hours 50 per cent of French music |
| Public performances such as drama plays, dance, lyric concerts) | None | 15 events | 15 events | None | None | None |

EU: European works; FL: works originally produced in French language
Source: CSA¹⁷⁰

¹⁷⁰ The data in this and the other tables in this section is available on the CSA website (www.csa.fr).

Table A4. Production obligations for the national terrestrial television channels (2002)

| | TF1 | F2 | F3 | C+ | F5 | M6 |
|---|--------------|------|------|--------------------------------|-------------------|----------------------|
| Investments in movies – share of total revenue (per cent) | 3.2 | 3.2 | 3.2 | 20 (with 12 to EU and 9 to FL) | NA ¹⁷¹ | 3.2 |
| Investments to movies independent producers – share of total investments (per cent) | 75 | 75 | 75 | 75 | NA | 75 |
| Investments in EU and FL audiovisual works – share of total revenue (per cent) | 16 (FL only) | 18 | 18.5 | 4.5 | 16 (FL only) | 18 EU and 13.5 FL |
| Investments to audiovisual independent producers – share of total investments (share) | 2/3 | 2/3 | 2/3 | 2/3 | 2/3 | 2/3 |
| Investments in cartoons – share of total revenue (per cent) | 0.6 | None | None | None | None | 1.0 |
| Investments in music programmes – minimal investments (€ million) | None | None | None | None | None | 21.34 ¹⁷² |

EU: European works FL: works originally produced in French language
Source: CSA, companies data

Table A5. Revenues of the national terrestrial television channels (2003)

| Source of revenue | Revenue (€ million) | | | | | |
|-----------------------------|---------------------|---------|---------|----|-------|-------|
| | TF1 | FT2 | FT3 | C+ | F5 | M6 |
| Licence fee | – | 608 | 756.2 | – | 132.8 | – |
| Advertising and sponsorship | – | 396 | 277 | – | 28.1 | 575 |
| Other revenues | 11.9 | 45.4 | 66 | – | 2.4 | 25.2 |
| Total revenues | 1,473.2 | 1,049.4 | 1,096.2 | – | 163.3 | 600.2 |

Source: Companies' financial statements

¹⁷¹ NA: Not applicable (usually because of the station's specific situation)

¹⁷² With a minimum of 150 video clips, including 30 from brand new artists.

Table A6. Advertising market share of the national terrestrial television channels (1998–2003)

| | Advertising market share (per cent) | | | | | |
|-----|-------------------------------------|------|------|------|------|------|
| | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 |
| TF1 | 50.2 | 51.1 | 53.8 | 54.9 | 54 | 54.7 |
| FT2 | 17.6 | 16.3 | 12.7 | 11.4 | 11.9 | 11.7 |
| FT3 | 11.1 | 10.2 | 8.3 | 7.6 | 8.0 | 8.1 |
| C+ | 2.7 | 2.8 | 3.2 | 2.5 | 2.5 | 2.2 |
| F5 | 0.4 | 0.5 | 0.6 | 0.6 | 0.7 | 0.9 |
| M6 | 17.9 | 19.1 | 21.4 | 23.0 | 22.9 | 22.4 |

Source: SECODIP, TNS¹⁷³

Table A7. Audience share of the national terrestrial television channels – for viewers over 4 years of age (1996–2003)

| | Audience share (per cent) | | | | | | | |
|--------|---------------------------|------|------|------|------|------|------|------|
| | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 |
| TF1 | 35.4 | 35.0 | 35.3 | 35.1 | 33.4 | 32.7 | 32.7 | 31.5 |
| FT2 | 24.2 | 23.7 | 22.5 | 22.3 | 22.1 | 21.1 | 20.8 | 20.5 |
| FT3 | 17.7 | 17.1 | 17.0 | 16.3 | 16.8 | 17.1 | 16.4 | 16.1 |
| C+ | 4.5 | 4.5 | 4.6 | 4.5 | 4.1 | 3.6 | 3.5 | 3.7 |
| F5 | 1.6 | 1.8 | 1.9 | 1.9 | 1.8 | 1.9 | 2.4 | 2.9 |
| ARTE | 1.4 | 1.5 | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 | 1.8 |
| M6 | 11.9 | 12.7 | 12.9 | 13.6 | 12.7 | 13.5 | 13.2 | 12.6 |
| Others | 3.4 | 3.8 | 4.3 | 6.3 | 7.5 | 7.8 | 9.5 | 10.9 |

Source: Médiamétrie¹⁷⁴

¹⁷³ Data initially from SECODIP, now TNS Media Intelligence. Data on advertising investments in media, which used to be provided by SECODIP, is now available through TNS Media Intelligence. See their monthly barometer of advertising investments in media, available at http://www.tnsmediainelligence.com/03_contenu_1.htm, (accessed 14 August 2005).

¹⁷⁴ Information from the Médiamétrie website (www.mediametrie.fr).

**Table A8. Annual output of the national terrestrial television channels
– breakdown by genre (2002)**

| | TF1 | FT2 | FT3 | F5 | M6 | |
|---|---|-------|-------|-------|-------|------|
| Share of total hours – breakdown by genre (per cent) | News | 11.3 | 21.1 | 16.7 | 0.3 | 5 |
| | Current affairs and documentaries | 17.4 | 17.9 | 27.8 | 80.1 | 5.3 |
| | Feature films | 3.7 | 3.3 | 4.6 | 0.6 | 3 |
| | TV series and docudrama | 31.4 | 25.1 | 25.6 | 9.7 | 35.2 |
| | Entertainment | | | | | |
| | Music shows | 16 | 17.5 | 9 | 2.2 | 35.1 |
| | Sports | 4.5 | 6.1 | 5.8 | – | 0.3 |
| | Other programmes including advertising | 13 | 6.5 | 6.5 | 4.5 | 13.1 |
| Other programmes including internal advertising, like promos | 2.7 | 2.5 | 4 | 2.6 | 3 | |
| Total hours | 8,760 | 8,870 | 8,155 | 5,845 | 8,760 | |

Being mostly a movie channel, Canal+ was not included in this table.

Source: CSA, companies reports

**Table A9. News programmes and documentaries devoted to arts on the national
terrestrial television channels (2002)**

| | F 2 | F 3 | F 5 | ARTE | TF1 | M6 | CANAL+ |
|--|--------|--------|--------|--------|--------|--------|--------|
| Painting arts | 54h40 | 6h53 | 63h27 | 65h07 | 1h41 | – | – |
| Dance | 6h02 | 4h02 | 7h32 | 12h50 | – | – | – |
| Movies | 46h19 | 26h54 | 133h20 | 65h52 | 5h23 | 23h02 | 216h06 |
| Entertainment | – | 50h52 | 39h28 | 0h52 | 123h35 | – | 1h55 |
| Literature | 186h04 | 20h30 | 53h01 | 27h24 | 23h35 | – | – |
| Medias | 3h10 | 11h04 | 37h08 | 3h54 | – | 29h47 | 89h53 |
| Music | 75h13 | 37h45 | 93h56 | 114h24 | 15h24 | 90h11 | 13h03 |
| Theatre | 2h47 | 2h40 | 10h38 | | | | |
| Others | 38h41 | 161h40 | 55h14 | 77h19 | 1h50 | 0h12 | 10h52 |
| Total | 412h56 | 322h20 | 493h44 | 377h05 | 171h28 | 143h12 | 331h50 |
| Share of total programming hours (per cent) | 4.7 | 4.0 | 8.5 | 12.9 | 2.0 | 1.6 | 3.8 |

Public performances not included

Source: CSA

Table A10. Cultural programmes on the national terrestrial television channels (2002)

| | F 2 | F 3 | F 5 | ARTE | TF1 | M6 | CANAL+ |
|--|--------|---------|---------|---------|--------|--------|--------|
| Total broadcast hours | 713h45 | 1000h54 | 2719h03 | 1805h21 | 323h34 | 329h54 | 715h24 |
| Broadcasts at peak hours (18:00-23:00) | 21h51 | 106h30 | NS | NS | 34h39 | 66h52 | 127h31 |
| Share of broadcasts at peak hours 18:00-23:00 (per cent) | 3.1 | 10.6 | – | – | 10.7 | 20.3 | 17.8 |

NS: Not Significant (because of their specific schedules)

Source: CSA

Table A11. Airtime devoted to politicians by national terrestrial television channels (2003)

| | | TF1 | F2 | F3 | Canal+ | M6 |
|--|---|------------|-------------|-------------|-------------|------------|
| Share of airtime devoted to politicians: in newscasts (per cent) | Government | 43.9 | 40.3 | 38.5 | 37.9 | 38.4 |
| | Majority in Parliament | 18.7 | 23.6 | 25.2 | 24.2 | 26.7 |
| | Opposition in Parliament | 32.7 | 32.6 | 31.4 | 33.9 | 32 |
| | Political parties not represented in Parliament | 4.7 | 3.5 | 4.9 | 4.0 | 2.9 |
| Total (hours) | | 8h 25m 56s | 36h 36m 06s | 14h 57m 26s | 5h 59m 56s | 1h 32m 02s |
| Share of airtime devoted to politicians: in political and current affairs shows (per cent) | Government | 31.3 | 29.4 | 37.3 | 29.4 | 32.9 |
| | Majority in Parliament | 22.7 | 21.0 | 29.0 | 29.3 | 15.3 |
| | Opposition in Parliament | 37.8 | 39.8 | 32.5 | 35.4 | 38.6 |
| | Political parties not represented in Parliament | 8.2 | 9.8 | 1.2 | 5.9 | 13.2 |
| Total (hours) | | 3h 32m 56s | 32h 38m 23s | 59h 31m 43s | 9h 53m 21s | 4h 24m 32s |
| Share of airtime devoted to politicians: in other programmes (per cent) | Government | 23.8 | 26.2 | 16.9 | 28 | – |
| | Majority in Parliament | 42.4 | 19.2 | 25.1 | 19 | – |
| | Opposition in Parliament | 21.6 | 45.7 | 55.3 | 52.5 | – |
| | Political parties not represented in Parliament | 12.2 | 8.9 | 2.7 | 0.5 | – |
| Total (hours) | | 1h 03m 56s | 28h 29m 11s | 31h 13m 30s | 19h 45m 35s | – |

Source: CSA

Table A12. French local television stations

| Name of station | Broadcasting area | Date of inauguration | Date of expiration of authorisation |
|-------------------------------------|------------------------------|----------------------|-------------------------------------|
| In Metropolitan France: | | | |
| Télé Toulouse | Toulouse | 7 April 1988 | 18 November 2005 |
| TV8 Mont-Blanc | Savoie and Haute-Savoie | 26 July 2000 | 1 August 2005 |
| Télé Lyon Métropole | Lyon | 20 February 1989 | 31 August 2006 |
| Télé 102 | Vendée (Les Sables-d'Olonne) | 19 July 1999 | 19 July 2004 |
| Clermont 1ère | Clermont-Ferrand | 9 October 2000 | 1 July 2005 |
| Télé Sud Vendée | Vendée (Luçon) | 18 November 1999 | 1 January 2005 |
| TV7 Bordeaux | Bordeaux | 26 July 2000 | 1 January 2006 |
| Canal 32 | Troyes | 23 November 2001 | 30 September 2006 |
| Outside Metropolitan France: | | | |
| Antenne Réunion | La Réunion | 18 March 1991 | 27 September 2007 |
| Canal Réunion | La Réunion | March 1991 | 30 August 2005 |
| Antenne Créole | Guyane | 15 March 1994 | 14 March 2003 |
| Canal Guyane | Guyane | 22 March 1996 | 31 December 2004 |
| Antilles Télévision | Martinique | February 1993 | 6 February 2005 |
| Canal Antilles | Martinique | 12 July 1993 | 11 February 2008 |
| L'A1 Guadeloupe | Guadeloupe | – | 14 January 2004 |
| Canal 10 | Guadeloupe | – | 13 December 2008 |
| Éclair TV | Guadeloupe | – | 14 January 2004 |
| Canal Antilles | Guadeloupe | 12 July 1993 | 11 February 2008 |
| Tahiti Nui TV | Polynésie française | 29 June 2000 | 28 June 2005 |
| Canal Polynésie | Polynésie française | 22 December 1994 | 28 July 2004 |
| Canal Calédonie | Nouvelle-Calédonie | 31 December 1994 | 27 July 2004 |

Source: CSA

Table A13. Cable and satellite channels (by providers)

| Groups | Channels | Number of services | Revenue (in 2001) € millions |
|-------------------------|---|--------------------|------------------------------|
| TPS | Cinéstar 1&2, Cinétoile, Cinéfaz, TPS Star, Multivision, Infosport, Télétoon | 8 | 128.8 |
| TF1 | Eurosport France, Shopping Avenue, LCI, Odyssée | 4 | 121.2 |
| Multi-thematic channels | Planète, Planète 2, Forum, Seasons, Canal Jimmy, Ciné Cinémas 1, 2, 3, Ciné Classics | 9 | 111.9 |
| Canal+ / Vivendi | 13ème Rue, AlloCinéInfo, I Télévision, Kiosque, Demain | 5 | 83 |
| AB | ABI, AB Moteurs, Mangas, RFM TV, Musique Classique, Zik, Action, Ciné Palace, Rire, Romance, Polar, XXL, Animaux, Chasse et Pêche, Encyclopédia, Escales, Fit TV, La Chaîne Histoire, RTL 9 | 19 | 77.2 |
| Pathé | Pathé Sport, Comédie, Voyage, TMC | 4 | 69.5 |
| Lagardère | Canal J, MCM, Muzzik, Tiji, La Chaîne Météo, Santé Vie | 6 | 65.3 |
| France Télévision | Euronews, Festival, Histoire, Mezzo, Régions | 5 | 47.6 |
| M6 | Fun TV, M6 Music, Club Téléachat, Téva | 4 | 32.7 |
| Suez | Paris Première | 1 | 32 |
| TF1/M6 | Série Club, TF6 | 2 | 22.5 |
| Others | Fox Kids, KTO, TFJ, Motors TV, TV Breizh, L'Equipe TV, Disney Channel, Game One, Ciné Info, Equidia, Fashion TV | 11 | 96.1 |

Source: CSA, companies' data

ANNEX 2. Legislation cited in the report

The *Journal officiel de la République Française* is the French official gazette.

The Law of 1986 and main subsequent modifications are available in English at:
http://www.csa.fr/upload/dossier/loi_86_english.pdf

Laws

Law on Freedom of Communication:

Law No. 86-1067 of 30 September 1986 on Freedom of Communication, *Official Gazette*, 1 October 1986. (*Law on Freedom of Communication 1986*)

Law No. 89-25 of 17 January 1989, modifying the Law of 30 September 1986, *Official Gazette*, 18 January 1989.

Law No. 94-88 of 1 February 1994, modifying the Law of 30 September 1986, *Official Gazette*, 2 February 1994.

Law No. 2000-719 of 1 August 2000, modifying the Law of 30 September 1986, *Official Gazette*, 2 August 2000.

Other laws:

Law No. 2004-669 of 9 July 2004 on Electronic Communications and Services of Audiovisual Communications, *Official Gazette*, 10 July 2004. (*Law on Electronic Communications 2004*)

Law No. 2003-1365 of 31 December 2003 on the Public Service Obligations of Telecommunications and France Télécom, *Official Gazette*, 1 January 2004. (*Law on the Public Service Obligations of Telecommunications and France Télécom 2003*)

Law No. 82-652 of 29 July 1982 on Audiovisual Communication, *Official Gazette*, 30 July 1982. (*Law on Audiovisual Communication 1982*)

ANNEX 3. Bibliography

In English

- Baker, Edwin C., *Media, Markets, and Democracy*. (Cambridge: Cambridge University Press, 2002)
- Blumler, Jay G., “The British approach to public service broadcasting”, in Avery Robert K. (ed.), *Public Broadcasting Service in a Multichannel Environment* (White Plains, NY: Longman, 1993)
- Franklin, B., “A Good Day to Bury Bad News? Journalists, Sources and the Packaging of Politics”, in S. Cottle (ed.), *News, Public Relations and Power* (London: Sage, 2003)
- Owen, Bruce M. and Steven Wildman, *Video Economics* (Cambridge: Harvard University Press, 1992)
- Vedel, Thierry and Jérôme Bourdon, “French Public Service Broadcasting: From Monopoly to Marginalization?” in Avery Robert (ed.), *Public Service Broadcasting in a Multichannel Environment* (White Plains, NY: Longman, 1993)

In French

- Aron, Mathieu and Marie-France Etchegoin, *Le bûcher de Toulouse d'Alègre à Baudis: histoire d'une mystification (The Bonfire of Toulouse from Alègre to Baudis: history of a mystification)* (Paris: Grasset, 2005)
- Bourdieu, Pierre, *Sur la télévision, suivi de L'emprise du journalisme, (On television, followed by The influence of journalism)* (Paris: Liber, 1996)
- Charon, Jean-Marie, *Réflexions et propositions sur la déontologie de l'information. Rapport à Madame la Ministre de la Culture et de la Communication, (Reflections and proposals on the deontology of information. Report to the Minister of Culture and Communication)* (Paris: 1999)
- Chauveau, Agnès, *L'audiovisuel en liberté. Histoire de la Haute Autorité (Free broadcasting. An history of the High Authority)* (Paris: Presses de Sciences-Po, 1997)
- Dagnaud, Monique, *L'Etat et les médias. Fin de partie (The State and the media. Endgame)* (Paris: Editions Odile Jacob, 2000)
- Derieux, Emmanuel, *Droit de la communication. (Communication Law)* (Paris: LGDJ, 2003)
- Gerstlé, Jacques, *La communication politique (Political Communication)* (Paris: Armand Colin, 2004)
- Halimi, Serge, *Les nouveaux chiens de garde, (The new watchdogs)* (Paris: Liber/Raisons d'agir, 1997)
- Lemieux, Cyril, *Mauvaise presse: une sociologie compréhensive du travail journalistique et de ses critiques, (Bad Press: a comprehensive sociology of journalism and of its criticism)* (Paris: Editions Métailié, 2000)

Kriegel, Blandine, *La violence à la télévision. Rapport à M. Jean-jacques Aillagon, ministre de la Culture et de la Communication, (Violence on television. Report to the Minister of Culture and communication, Mr Aillagon)* (Paris: La Documentation française, 2002)

Mathien, Michel (ed.), *L'information dans les conflits armés: du Golfe au Kosovo (Information during wars: from the Gulf to Kosovo)* (Paris: L'Harmattan, 2001)

Neveu, Erick, "Médias, mouvements sociaux, espaces publics", ("Media, social movements, public spheres"), in *Réseaux*, vol.17, No. 98, 1999.

Pean, Pierre, and Christophe Nick, *TF1, un pouvoir (TF1, a power)* (Paris: Fayard, 1997)

Vedel, Thierry