



***Independent Study on  
Indicators for Media Pluralism  
in the Member States – Towards  
a Risk-based Approach***

Prepared for the European Commission  
Directorate-General Information Society and Media  
SMART 007A 2007-0002

*by*

**K.U.Leuven – ICRI (lead contractor)  
Jönköping International Business School - MMTC  
Central European University - CMCS  
Ernst & Young Consultancy Belgium**

**Final Report - Annex III**

**COUNTRY REPORTS**

**France**

Contract No.: 30-CE-0154276/00-76

Leuven, July 2009



**Legal Notice**

By the Commission of the European Communities  
Directorate-General for Information Society and Media

Neither the European Commission nor any person acting on behalf of the European Commission is responsible for the use which might be made of the information contained in the following report. The views expressed are those of the authors. The report does not necessarily reflect the views of the European Commission, nor does the European Commission accept responsibility for the accuracy of the information contained herein.

**Important Notice**

By K.U.Leuven, Jönköping International Business School, Central European University and Ernst & Young Consultancy Belgium

The country reports are not in any way intended to be an implementation of the Media Pluralism Monitor in the Member States. They were drafted during the initial stages of the study, with the intention of obtaining a better view of regulatory measures in the broad sense – including co- and self-regulatory measures – adopted in the Member States to promote or safeguard, directly or indirectly, pluralism in the media. The intention was to obtain a high-level snapshot of possible implementation problems and not to express any value judgements on existing rules. The resulting overview facilitated the development of methods for assessing the effective implementation of regulatory safeguards, which had to be, according to the Terms of Reference for the study, an intrinsic element of the legal indicators. We strongly recommend that you also download the file containing our Introduction as it sets out our approach to the initial stages of the project in detail and includes a short manual on how to read the country reports. We draw your attention to the Overview file as well.

Please note that the country reports were finalized in the middle of 2008 and do not therefore reflect progress made with the transposition of the Audiovisual Media Services Directive or any subsequent initiative by Member States. They are made available not as final deliverables of the study, but as interim deliverables, intended to illuminate part of the route taken by the study team and thereby to contribute towards the full transparency of the MPM project.

## 9. Overview of legal and policy measures promoting/supporting media pluralism

### [FRANCE]

Author: Katrien Lefever

Country correspondent: Prof. Dr. Nadine Toussaint Desmoulins

#### National regulations relevant in the area of media pluralism

##### • Legislation

- Declaration of human rights (1789)
- Law 86-1067 on freedom of communication (Loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication) (Loi Létard)
- Law 2004-669 on electronic communications et audiovisual communication services (Loi n° 2004-669 du 9 juillet 2004 relative aux communications électroniques et aux services de communication audiovisuelle)
- Law on freedom of press (Loi du 29 juillet 1881 sur la liberté de la presse)
- Law on access to administrative documents (Loi n° 78-753 du 17 juillet 1978 portant diverses mesures d'amélioration des relations entre l'administration et le public et diverses dispositions d'ordre administratif, social et fiscal (Liberté d'accès aux documents administratifs et réutilisation des informations publiques))
- Law on the distribution of newspapers (Loi du 2 Avril 1947 relative au statut des entreprises de groupage et de distribution des journaux et publications périodiques) (Loi Bichet )
- Law on the statute of Agence France Presse (Loi n° 57-32 du 10 janvier 1957 portant statut de l'Agence France Presse)
- Law on the reform of the press (Loi n° 86-897 du 1er août 1986 portant réforme du régime juridique de la Presse)
- Decree 93-535 approving the terms and conditions of RFO (Décret n° 93-535 du 27 mars 1993 portant approbation du cahier des missions et des charges de la Société nationale de programme Réseau France Outre-mer)
- Decree 94-813 approving the terms and conditions of France 2 and France 3 (Décret n° 94-813 du 16 septembre 1994 portant approbation des cahiers des missions et des charges des sociétés France 2 et France 3)
- Decree 2005-286 approving the terms and conditions of France 4 (Décret n° 2005-286 du 29 mars 2005 portant approbation du cahier des charges de la société France 4)
- Decree on Press Agencies (Ordonnance n°45-2646 du 2 novembre 1945 portant réglementation provisoire des Agences de Presse)
- Decree 95-71 approving the terms and conditions of France 5 (Décret n° 95-71 du 20 janvier 1995 portant approbation du cahier des missions et des charges de France 5)
- Law 81-766 on fixed book price (Loi 81-766 relative au prix du livre)
- Decree 2004-1392 on the broadcasting of major events (Décret n°2004-1392 relatif à la diffusion des événements d'importance majeure)
- Decree 90-66 on the broadcasting of cinematographic and audiovisual works (Décret n°90-66 modifié relatif à la diffusion des oeuvres cinématographiques et audiovisuelles)
- Code of sports (Ordonnance n° 2006- 596 relative à la partie législative du code du sport)
- Code of penal procedure (Code de procédure pénale - CPP)

- Law 82-652 on audiovisual communication (Loi n° 82-652 du 29 juillet 1982 sur la communication audiovisuelle)
- Decree 95-240 on the use of French
- Decree 2001-1332 on the contribution of encoded channels to the development of the production of cinematographic and audiovisual works
- Decree 2001-609 on the level of the production of cinematographic and audiovisual works (Décret n°2001-609 sur le développement de la production d'oeuvres cinématographiques et audiovisuelles)
- Decree 2001-1333 on the digital terrestrial broadcasting of services (other than radio) (Décret n°2001-1333 du 28 décembre 2001 sur la diffusion des services autres que radiophoniques par voie hertzienne terrestre en mode numérique)
- Tax Law (Code général des impôts et de nombreux décrets relatifs à diverses modalités d'aides de l'Etat à la presse)
- Law 47-585 on the distribution of newspapers (Loi n°47-585 du 2 avril 1947 relative au statut des entreprises de groupage et de distribution des journaux et écrits périodiques)
- Law promoting equal opportunities (Loi n° 2006-396 pour l'égalité des chances)
- Law 2005-102 on the equal rights and opportunities, participation and citizenship of disabled persons (Loi n° 2005-102 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées)
- Act on the elections (Code électoral du 27 octobre 1964)
- Convention on Journalists (Convention collective nationale de travail des journalistes du 1 November 1976)
- **Codes of conduct**
  - Code of Ethics (1918) (revised in 1938)
  - Diversity Charter (2004)
- **Other**
  - Code on the film industry (Code de l'industrie cinématographique, version consolidée au 29 décembre 2007)
  - Law on the confidence in the digital economy (Loi n°2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique)
  - Property Code (Code du patrimoine (régime des archives), version consolidée au 30 juillet 2008)
  - Copyright Code (Loi n° 92-597 du 1er juillet 1992) (Code de la propriété intellectuelle (protection et exceptions des droits d'auteurs et droits voisins))
  - Employment Code (Code du travail (statut des journalistes))

**TABLE 1. Constitutional protection of press and communication freedoms**

Measure	Source	Scope of application	Key features
<b>1.1. Freedom of expression</b>	Art. 11 Declaration of human rights (1789)	PM + AAVM + all citizens (Constitutional court, 1984)	Free communication of thoughts and opinions.
<i>Note: Rules restricting free speech (e.g. defamation, racism, ...) are not considered as restrictions, but are seen as means to ensure an equilibrium between rights and different interests that need an equal protection.</i>			
	Art. 1 Law 86-1067	AAVM (TV + R + internet)	The communication to the public by electronic way is free.
<b>1.2. Freedom of/ right to information</b>			
	Art. 14 Declaration of human rights (1789)	PM + AAVM	Right of access to information concerning the state budget.
	Law 76- 753 on Access to Administrative Documents		Right to access by all persons to administrative documents held by public bodies.
<i>Are there specific rules dealing with journalists' access to events for news reporting?</i>	Art. L 333-6 Code du sport	PM + AAVM	Journalists and other persons working in media companies are free to enter the venue of sports events.
<i>Note: Journalists may also easily enter to press conferences, Parliament, trials etc.</i>			
<b>1.3. Explicit recognition of media pluralism</b>	Art. 1 Law 86-1067	AAVM	The freedom of the communication to the public by electronic way can be restricted (or protected) in order to create pluralism.
	Case law of Constitutional Council ( <i>Conseil Constitutionnel</i> ), e.g. Decision n° 84-181 DC of 10 and 11 October 1984, Decision n° 86-210 DC of 29 July 1986 (press), Decision n° 86-217 DC of 18 September 1986 (audiovisual communication)		The Constitutional Council considers media pluralism as “an objective with constitutional value” (being a prerequisite for democracy).
<b>1.4. Protection of journalistic sources</b>	Code of Ethics 1918 (revised in 1938)		Journalists keep the professional secrecy.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
	Art. 109 CPP, Art. 56-2 CPP Art 60-1, 77-1, 90-3	PM + AAVM	Journalists are not obliged to reveal the origin of their sources during domiciliary visit, inquiry and requisition.
<i>Implementation problem: Protection of sources is only given to “professional journalists”, i.e. those who satisfy the criteria of Art L 7111-3 Code du Travail. Further, a bill extends the journalist's rights to protect their sources.</i>			
<b>1.5. Right of reply</b>	Art. 13 General press act (1881)	PM	Any person or institution mentioned in the press has the right to reply even if he has not been attacked and even if a possible error has already been corrected.
<i>Implementation problem: This right of reply is not often used.</i>			
	Art. 6 Law 82-652	AAVM (TV) + Internet	Right to reply when imputations to undermine honour or reputation have been broadcast.
<i>Implementation problem: Due to its complexity (delay, forms,...) the right to reply is very difficult to use in practice.</i>			
<b>1.6. Ratification of international instruments:</b>	No		

<b>-CoE's Framework Convention For The Protection Of National Minorities</b> <b>-UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Oct 2005)</b>	Yes		
---	-----	--	--

**TABLE 2. Editorial independence**

Measure	Source	Scope of application	Key features
<b>2.1. Journalists</b>	Art. 57 Law 86-1067	AAVM	The rights of journalists should not depend on their opinions or beliefs. Their recruitment and nomination may only depend on their professional capacities.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
	Convention collective nationale de travail des journalistes	P + AAVM	This Convention sets out the relations between employers and professional journalists.
<b>2.2. News / information programmes</b>			
<b>2.3. Other media content</b>	Code of Ethics 1918		Journalists may not write articles related to commercial or financial advertising.
<i>Implementation problem: This Code of Ethics has no legal value.</i>			
<b>2.4. Subsidies/Training of journalists (independence, ethic, recruitment, etc.)</b>			Media companies must pay taxes for professional training ( <i>taxe d'apprentissage, taxe pour la formation permanente</i> ) and journalists are allowed to take time to get such professional training.
<b>2.5. Consultative programming structure for participation of the public/citizens to media (i.e. a mechanism to allow citizens to participate in editorial decisions, under the form of e.g. an ombudsman, ethics or liaison committee, "Société des rédacteurs" ...)</b>			There is no real "ombudsman".
<i>Note: Since there is no legal obligation to have structures for participation of the public, they are very rare, informal and they can not participate in editorial decision. The exception is perhaps the daily "Le Monde" where the "société de rédacteurs" has some power (due to the fact that the journalists are shareholders).</i>			

**TABLE 3. Cultural pluralism**

Measure	Source	Scope of application	Key features
<b>3.1. Structural rules (guaranteeing or promoting access by the various cultural groupings to media companies' bodies, structures...)</b>			
3.1.1. Special representation requirements in media company structures	Diversity Charter		Encourage businesses to employ staff representative of the diverse French society.
3.1.2. Special representation requirements in media advisory bodies			No
3.1.3. Legal or policy measures either prohibiting discrimination in recruitment or promoting equal opportunities (ethnic minorities, gender, age, disabled...)	Law 2005-102 on the equal rights and opportunities, participation and citizenship of disabled persons		Discrimination in recruitment is forbidden.
	Act 24 February 2001		France 2 and France 3 have to promote the different cultures without any discrimination.
<b>3.2. Representation of the various cultural groupings in the media</b>			
3.2.1. Access to airtime for cultural groupings	Art. 56 Law 86-1067	AAVM	France 2 has the duty to carry religious programmes on Sunday.
3.2.2. Content obligations			
<i>Note: France applies a stricter definition than that of Article 4 of the Directive, and require all broadcasters to show more original European works than the Directive.</i>			
3.2.2.1. Promotion of European works	Art. 13, I Decree 90-66	Terrestrial television	Minimum 60% of European works
	Art. 13, II Decree 90-66	AAVM (not using frequencies)	Minimum 50% of European works
	Art. 27, 2° Law 86-1067	AAVM (Terrestrial television)	Minimum 60% of European works
	Art. 33, 9° Law 86-1067	AAVM (not using frequencies)	Minimum 60% of European works (applies also to peak hours)
	Art. 33, 10° Law 86-1067	AAVM (not using frequencies)	Proportions of European works writings and French original expression, which can vary according to the investments of the editor of service in production, but European works must represent at least 50% of the broadcast time.
<i>Note: Those “quota” are strictly supervised by the CSA. Every year, the CSA publishes the “bilans des chaînes” about the respect of the quota.</i>			
3.2.2.2. Promotion of European independent works			2/3 of the expenses on French language audiovisual production [ie 10.67% of turnover].
3.2.2.3. Promotion of national/regional works	Art. 13, I Decree 90-66	AAVM (Terrestrial television)	Minimum 40% French-speaking works.
	Art. 27, 2° Law 86-1067	AAVM (Terrestrial television)	Minimum 40% French-speaking works.
	Art. 28, 2° bis Law 86-1067	AAVM (R)	Quotas of French-speaking songs on the radio: minimum 40 % (derogation is possible).
	Art. 33, 9° Law 86-1067	AAVM (not using frequencies)	Minimum 40% French-speaking works (applies also to peak hours).
3.2.2.4. Language requirements	Art. 20-1, al. 1 86-1067	AAVM	The use of the French language is obliged,

			except broadcasting works in the original language.
3.2.2.5. Contribution to production	Art. 8 Decree 201-609; Art. 9 Decree 2001-1333; Art. 11, I Decree 2002-140	AAVM (TV)	Spend 16% of turnover to French language production or European works.
<i>Note: A special Fund (Compte de soutien aux industries de programme: COSIP), financed by a tax paid by the TV channels (about 2,75% of their turnover) is devoted to help the TV producers to create French or French-European audiovisual works.</i>			
	Art. 9 Decree 2001-1332	AAVM (Encrypted terrestrial television)	Spend 4,5% of turnover to French language production or European works.
3.2.3. Representation of minorities on the screen (e.g. presenting the news, in drama, movies...; can be engagement in an internal charter or can be imposed statutory)	Art. 47 Law on the equal rights and opportunities Art. 3-1 Law 86-1067	AAVM	The CSA has to monitor whether or not the broadcasters reflect the diversity of the French society.
<i>Note: In November 2006, the CSA has published its first “Bilan de la représentation de la diversité des origines et des cultures à la télévision et à la radio”. At the end of 2007 the CSA created an “Observatoire de la diversité audiovisuelle” that would evaluate the measures adopted by radio and television broadcasters to guarantee diversity in all its aspects: origin, age, sex, handicap...</i>			
3.2.4. Subsidies (apart from general PSB funding)	General tax law and other acts	PN + M	There exists about 18 different support mechanisms for the press (representing about 12% of the press turnover): subsidies to the national and local dailies, to regional weeklies, special tax system (no <i>taxe professionnelle</i> , low TVA, low <i>impôt sur les benefices</i> ), special postal rates, special railway rates, subsidies for the delivery systems,...).
	Art. 72-73 Annex III General tax law	PM	In order to receive indirect subsidies, a newspaper must obtain an inscription number from the CPPAP by satisfying the following criteria: -The paper is important in the dissemination of ideas and is involved in the instruction, education, information and recreation of the public. -The paper abides by its obligations under the Press Law. -The paper is distributed at least once every three months. -The paper is distributed for free and carries a marked price. -At least one third of the total volume is dedicated to editorial content. -It is not a brochure or catalogue or similar type of publication.
<b>3.3. Accessibility</b> (i.e. special measures to promote access to media contents by special needs groupings in society, like the elderly, disabled...)	Art. 43-11, al. 3 Law 86-1067; Art. 28, 5° bis Law 86-1067; Art. 33-1 Law 86-1067	AAVM	Obligation to facilitate access by disabled people to programmes.

**TABLE 4. Political pluralism**

Measure	Source	Scope of application	Key features
<b>4.1. Structural rules (relating to the organization and structures of media companies/advisory bodies)</b>			
4.1.1. Restrictions to politicians' ownership/control of media (avoid one dominating voice)	No provisions		
4.1.2. Requirements of independence from political parties / politicians	No provisions		
4.1.3. Incompatibility of political mandate with membership in media advisory or regulatory bodies	No provisions		
4.1.4. Representation requirements in media companies' bodies (board of directors...)	Art 47-1 à 47-5 Law 86-1067	AAVM	See 7.5.1.2.
4.1.5. Representation requirements in media advisory bodies and/or regulators			See 9.1
<b>4.2. Content rules (relating to media programmes, press articles, other content)</b>	Art. 14 Law 86-1067	AAVM	Prohibition of political advertisement.
4.2.1. (Equal/proportionate) Access to airtime for political groupings	Art 13 Law 86-1067	AAVM	The CSA has to guarantee the diversity of ideas and opinions in the different programmes on radio and television.
<i>Note: The CSA has published a report about access to airtime for political groupings for the period 1989-2000.</i>			
4.2.1.a. Non-paid access, e.g. right to insert own programmes or messages on the public channels	Art. 13 Law 86-1067		The editors have to respect an equilibrium between the time of intervention of -the members of government -the members of the parliamentary majority -the members of the parliamentary opposition
	Art. 55 Law 86-1067	AAVM	Duty to broadcast parliamentary debates and messages by political parties, unions and professional bodies.
	Art 45-2 Law 86-1067	AAVM	Each Parliament Assembly has its own channel ( <i>Public Sénat, La Chaîne parlementaire</i> ) which allow the deputies and senators to give their opinions and broadcast political debates.
4.2.1.b. Paid access: rules on political advertising			
4.2.2. Government announcements	Art 54 Law 86-1067	AAVM	Government announcements on the public broadcaster.
4.2.3. Impartiality obligations			
4.2.4. Fair representation of political viewpoints; special rules in election periods	Art. 16 Law 86-1067	AAVM	Special duties relating to broadcasting during election campaigns.
	Art. L52-1 Code Electoral		During the three months preceding the first day of the month of an election and until the date of the turn of polls, electoral propaganda in the press is forbidden.

**TABLE 5. Geographical pluralism**

Measure	Source	Scope of application	Key features
<b>5.1. Licensing policy fostering local/regional types of media</b> (for instance: is part of the spectrum explicitly reserved for regional/ local media; are there any rules safeguarding the local character of these media once they are operating, e.g. restrictions to cooperate or centralize programming/advertising decisions...)	Art 28 eq Law 86-1067	AAVM (private R and TV)	Part of the spectrum is explicitly reserved for regional/local radios and television. They are allocated by the CSA.
<b>5.2. Structural measures: access of various localities to media</b> (e.g. obligation to have branches throughout country)	Law 86-1067	AAVM (France 3 and Radio France)	France 3 and Radio France have sort of “branches” through the country.
<b>5.3. Content obligations: requirements to cover local events, etc.</b>		AAVM (France 3)	<i>Cahiers des charges</i>
<b>5.4. Regional State Aids</b>	Act of 1 December 1984	AAVM (Associative radios)	Subsidies for associative radios with less than 20% advertising revenue. A great number of them are local.
<b>5.5. Rules on national minorities</b>	In France, there are no official national minorities.		
<b>5.6. Rules on social inclusion of remote areas</b> (Aménagement du territoire)	Art 44-4 Law 86-1067	AAVM (Réseau France Outre Mer)	Réseau France Outre Mer has to schedule programmes for French people abroad.

**TABLE 6. Pluralism of ownership/control**

Measure	Source	Scope of application	Key features
<b>6.1. Sector specific rules limiting media ownership</b>			
6.1.1. Moment of intervention			
6.1.1.1. At moment of market entry (licensing procedure)			
6.1.1.2. At the moment of mergers & acquisitions			
6.1.1.3. Other (constant monitoring/supervision)			
6.1.2. Scope (i.e. trying to prevent one of the following forms of concentrated ownership and/or control)			
6.1.2.1. Monomedia	Art. 11 Law 86-897	PN (Daily political press - <i>presse quotidienne d'information générale et politique</i> )	An individual or legal entity cannot run or control daily publications dealing with political or general news that have a total circulation of more than 30% of the market of that type.
<i>Note: This law was adopted to hinder the extension of the Hersant group (that had reached the limit of 30 %). Nowadays, there is no legal entity that reaches the level of 30 %).</i>			
	Art. 39 Law 86-1067	AAVM (Private TV)	<ul style="list-style-type: none"> <li>- An individual or a legal entity cannot hold, directly or indirectly, more than 49% of the capital or the voting rights of an analogue terrestrial television channel at national level</li> <li>- An individual or a legal entity cannot hold, directly or indirectly, more than 50% of the capital or the voting rights of an analogue terrestrial television channel at regional level</li> <li>- An individual or a legal entity cannot hold, directly or indirectly, more than 50% of the capital or the voting rights of a company offering broadcast services via satellite.</li> </ul>
			<p>If a single person holds more than 15% of the capital share of one nationwide analogue terrestrial broadcaster, his participation in a second should be less than 15%. If one person owns more than 5% of the capital shares of two broadcasting companies, his share in a third cannot be more than 5%. Similar rules apply to satellite broadcasters. If a single person holds more than one third of the capital share of one satellite broadcaster, his participation in a second should be less than one third. If one person owns more than 5% of the capital shares of two satellite broadcasting companies, his share in a third cannot be more than 5%. In addition, a person or legal entity can neither hold more than one licence for nationwide analogue terrestrial television, nor one licence for analogue terrestrial television at</p>

			national level and one at regional level (with the exception of overseas territories).
6.1.2.2. Crossmedia	Art. 41-1 Law 86-1067; Art. 41-1-1 Law 86-1067; Art. 41-2 Law 86-1067; Art. 41-2-1 Law 86-1067	AAVM	Operators are not allowed to hold interests in more than two of the following three sectors: terrestrial television (analogue or digital), radio or daily newspapers, and whenever an operator is active in two of these sectors, certain thresholds must be respected. At national level, an individual or legal entity can be involved only in two of the following areas: <ul style="list-style-type: none"> <li>- one or more television licences for analogue or digital terrestrial channels reaching four million residents;</li> <li>- one or more terrestrial radio services reaching 30 million people</li> <li>- daily papers that have a market share of more than 20 percent of the national circulation</li> </ul> <p>The same rule applies at regional level. No licence for terrestrial television (analogue or digital) or radio or cable for a specific region can be issued if the holder has interests in:</p> <ul style="list-style-type: none"> <li>- one or more TV licences for analogue or digital terrestrial channels which are broadcast in the region;</li> <li>- one or more radio licences for radio programmes whose audience is more than 10% of the potential audience of all public and private operators in the same zone;</li> <li>- daily papers that are circulated in the region.</li> </ul>
6.1.2.3. Vertical integration with networks	Vertical integration in the media is not forbidden or limited		
6.1.2.4. Integration with advertising sector	No specific law		
<i>Note: Vincent Bolloré, for example, has partly control on Havas (advertising) and Direct TV.</i>			
6.1.2.5. Integration with other (e.g. energy) sectors	No specific law		
<i>Note: Bouygues (building), Arnault (Luxe ), Lagardère ( EADS) and Dassault (military industry) are active in the industry sector and the media sector.</i>			
6.1.2.6. Control over both commercial and public media	No specific law		
<i>Note: France Televisions (public) and TF1 (private) are partners in France 24 (international TV).</i>			
6.1.3. Criteria used to define thresholds for maximum ownership and/or control			
6.1.3.1. Number of licences	Act 20 October 2004  Art.41 al 4 Law 86-1067	AAVM (Terrestrial television (analogue))	The licence-holder of a nationwide analogue terrestrial television can hold up to seven licences for digital TV programmes. A single person can hold two licences for satellite broadcasting. At regional or local level, a single person can hold only one licence (analogue or digital) within the same geographical area. One person or legal entity

			may own several analogue or digital regional or local licences as long as they do not cover more than 12 million inhabitants. The same applies to cable licences as long as they do not cover more than eight million inhabitants.
6.1.3.2. Market shares	Art. 11 Law 86-897	PN	Supra
6.1.3.3. Circulation and audience shares			
6.1.3.4. Capital shares	Art. 39 Law 86-1067	AAVM	Supra
6.1.3.5. Voting shares	Art. 39 Law 86-1067	AAVM	Supra
6.1.3.6. Advertising revenues			
6.1.3.7. Involvement in number of media sectors	Art. 41-1 Law 86-1067; Art. 41-1-1 Law 86-1067; Art. 41-2 Law 86-1067; Art. 41-2-1 Law 86-1067	AAVM	Supra
<b>6.2. Sector specific rules preventing cooperation between media companies</b>			
<b>6.3. (Sector specific or general) rules preventing (non-EU) foreign ownership</b>	Art. 40 Law 86-1067	AAVM	Individuals or legal entities from outside the European Union cannot hold more than 20% of either the capital of a daily paper, or of the capital of companies, which hold a terrestrial radio, or television broadcasting licence in the French language. This provision is also applicable to digital terrestrial television.
<b>6.4. General competition rules</b>			
6.4.1. Antitrust	No specific rules for media.		
6.4.1.1. Specific provisions for media sectors			
6.4.1.2. Case law in media sectors (examples of leading cases; any specificities?)			
6.4.2. Merger control	Supra		
6.4.2.1. Specific provisions for media sector (e.g. possibility for government to overrule NCA decision)	No		
6.4.2.2. Case law in media sectors (examples of leading cases; any specificities?)	Merger Canal+/TPS (July 2006)		
<b>6.5. Transparency obligations</b>			
6.5.1. Transparency towards consumer (e.g. identification obligation; cf. Art. 3a AVMS Directive)			
6.5.2. Transparency obligations towards regulator or in general (info on capital structure, balance sheets, either in specific media laws or in general company laws...)	Art. 5 Act 1 August 1986	PN	Transparency obligations related to the name of the main shareholders and to the type of the share that is allowed.
	Art 36 Law 86-1067	AAVM	Transparency obligations related to the name of the main shareholders and the type of the share that is allowed.
	Art. 6 Law 21 June 2004	Non-linear services	Transparency obligations related to the name of the main shareholders and the type of the share that is allowed.
<i>Implementation problem: In reality, due to the complicated ownership structure, it is often difficult to know exactly who (or more usually which company) controls what.</i>			

**TABLE 7. Pluralism of media types and genres**

Measure	Source	Scope of application	Key features
<b>7.1. Minimum service in a number of programme strands for commercial / community / public service media</b>	Art. 28 Law 86-1067	AAVM	Content conditions attached to licences: - duration and characteristics of programming - diffusion of French works, educational and cultural programmes, programmes dedicated to the scientific, technical and industrial culture, .... - time dedicated to advertising, sponsorship and conditions of insertion - data enriching or complementing the main programming - ....
	Chapter 3 Decree 93-535	AAVM (Réseau France Outre-mer)	Réseau France Outre-mer has to offer the following programme types: information programmes, music programmes, children’s and adolescents’ programmes, sports programmes.
<i>Implementation problem: Advertisers, providing a significant part of the financing in the media, want to reach as many viewers as possible. To please their advertisers, broadcasters adopt their broadcasting schedule to the needs of their viewers. E.g. since the public is not that interested in some kind of programmes (e.g. cultural programmes) these programmes are shunned and broadcasters decide to schedule these programmes very late in the evening.</i>			
<b>7.1bis. Special framework for community media (“medias associatifs”): Is there a special legal framework granting protection to community media (including rules determining the criteria - e.g. being independent of political parties, non-profit, respecting the law, etc. - in order to qualify as community media; granting certain privileges to that type of media, like guaranteed access to spectrum or networks, etc.)</b>	Law 86-1067 + CSA Communiqué 34 (29 August 1989)		CSA classifies the authorized radios in 5 classes: class A concern the local associative radios. There are about 500 associative radios. They can receive subsidies from <i>Fonds de soutien à l’expression radiophonique</i> .
<b>7.2. Events list</b> (please indicate what type of events are listed, e.g. only sports events or also cultural, political events...)	Art. 20-2 Law 86-1067; Art. 20-3 Law 86-1067 Decree 2004-1392 on events of major importance	AAVM	The list of major events only contains sports events.
<b>7.3. Short news reporting</b>	Art. L 333-7 Code of Sports		The Code du Sport contains a right to short reporting for sports events.
<b>7.4. Fixed book price</b>	Law 81-766	B	Maximum discounts of 5% of the retail price fixed by the publisher.
<b>7.5. Public service media</b>			
7.5.1. Structural rules - organization			
7.5.1.1. <i>Independence (from government, political powers, economic powers; is this explicitly guaranteed, how?)</i>	Art. 11 Universal Declaration of Human Rights Art. 1 Law 86-1067	PM + AAVM AAVM	Free communication of thoughts and opinions. The CSA has to guarantee the independence of the public broadcasters.
7.5.1.2. <i>Election of management, composition of board members...(government? Parliament? Other?)</i>	Art. 47-1 Law 86-1067	AAVM	France Television: 14 members: one person representing each chamber of

			Parliament, five persons representing the State, five qualified persons nominated by the CSA and two persons representing the workforce. The President is nominated by the CSA and may also be removed by the CSA.
Implementation problem: Although the CSA is considered as an independent body, it is in a certain way politically oriented due to its composition.			
7.5.1.3. <i>Specific representation requirements for board of directors, other bodies</i>			
7.5.1.4. <i>Advisory bodies: ensured broad representation of cultural, political and geographic groupings</i>			
7.5.1.5. <i>Employment: ensured broad representation of cultural, political and geographic groupings</i>	Law 2006-396		Promoting diversity.
7.5.2. <i>Structural rules - funding</i>			
7.5.2.1. <i>Source of funding (state / tax money, public / licence fees, advertising, merchandising...)</i>	Finance Law		France Télévision depends on the licence fee around 65% of their income.
			The vast majority of the remaining revenue comes from a combination of advertising and sponsorship of programmes, and national programming companies may also sell audio-visual works to which they have the rights.
7.5.2.2. <i>Sufficiency of resources (taking into account the missions and new media activities)</i>			
7.5.3. <i>Definition of public service remit</i>			
7.5.3.1. <i>Obligation to provide a varied and pluralistic offer</i>	Art. 43-11 Law 86-1067	AAVM	<ul style="list-style-type: none"> <li>- Provide programmes representing diversity, pluralism and democratic principles</li> <li>- Ensure independence, pluralism of information and pluralist expression of viewpoints</li> <li>- Ensure promotion of French language and of cultural and linguistic heritage in its local and regional diversity</li> <li>- Facilitate democratic debate, exchanges between different parts of the population, social insertion and citizenship</li> </ul>
	Art. 4-5 Decree 93-535; Art. 2; Art. 3-1 Decree 95-71; Art. 2-3 Decree 2005-286; Art. 2-3 Decree 94-813	AAVM (France 2, France 3, France 4, France 5, Réseau France Outre-mer)	Obligation to guarantee pluralism.
7.5.3.2. <i>Obligation to engage in new media activities</i>	Art. 43-11, al. 5 Law 86-1067	AAVM	Develop new services to enrich or complement their programmes as well as new production and diffusion methods.
7.5.4. <i>Content obligations (not yet mentioned in table 3, 4 or 5)</i>	Art. 44, I Law 86-1067; Art. 45 Law 86-1067; Art. 45-2 Law 86-1067	AAVM	<i>Cahiers des charges</i> <ul style="list-style-type: none"> <li>- France 2: General programme schedule</li> <li>- France 3: National, regional and local programme schedule</li> <li>- France 5: Educational programme schedule</li> </ul>

			<ul style="list-style-type: none"> <li>- Réseau France outre-mer: Programme schedule for French people abroad</li> <li>- Chaîne parlementaire: Political programme schedule</li> <li>- Arte-France: International (European) programme schedule</li> <li>Radio France + Radio France Internationale</li> </ul>
7.5.5. Universal coverage obligations			

**TABLE 8. Distribution (networks/network facilities/print distribution)**

Measure	Source	Scope of application	Key features
<b>8.1. Guarantees for 'public contents' to be distributed (must carry or other)</b>	Art. 34-2 Law 86-1067; Art. 34-4 Law 86-1067; Art. 45-3 Law 86-1067; Decree 2005-1355 of October 31, 2005	AAVM	Distributors must freely make available to their subscribers: - Arte and France Television that are transmitted by analogue terrestrial networks; - TV5 channel; - Réseau France Outre-Mer destined to the metropolitan public; - the above channels that are transmitted by digital terrestrial networks when the distributor proposes a digital offering - Chaîne parlementaire - Services for disabled people associated with the channels to be carried - Local channels that so request (except distributors on satellite)  Any distributor must accept requests of editors of private free-to-air (analogue and digital) channels to have access to their distribution terminal, under fair, reasonable and non-discriminatory conditions.
<b>8.2. Guarantees for network operators to distribute 'public contents' (must offer or other)</b>	Art. 34-1 Law 86-1067; Art. 34-1-1 Law 86-1067	Editors of terrestrial channels	They cannot oppose the retransmission of their services over the internal distribution network of a collective building where this network is connected to a cable network. Furthermore, they cannot oppose the retransmission of their services over cable networks.
<b>8.3. Ex ante regulation (in electronic communications): SMP market analysis for broadcasting transmission</b>			
8.3.1. Implementation of market analysis procedure in ECNS Directives			
8.3.2. Result of (first) round of market analysis of market 18		AAVM (analogue terrestrial television)	Accounting separation and cost accounting
		AAVM (digital terrestrial television)	Provision of access on reasonable request + Prohibition of excessive or predatory prices
<b>8.4. Ex ante regulation for associated facilities of networks, so-called 'bottleneck facilities'</b>			
8.4.1. Conditional access	Art. 95 and 30-3 Law 86-1067 Opinion (26/01/2004) of the Audiovisual Council	AAVM	The operators of CAS grant access under fair, equitable and non-discriminatory conditions at requests when these requests concern the provisioning of technical

			benefits necessary for the reception of their offer by the public.
8.4.2. EPG (or other search tools)	Art 34-4 Law 86-1067	AAVM	Distributors of services must grant access to their EPG to editors under fair, equitable, and non-discriminatory conditions.
8.4.3. API			
8.4.4. Other			
<b>8.5. Interoperability requirements</b>	Art. 95 Law 86-1067	AAVM	Editors of pay-television digital terrestrial services should conclude agreements with all distributors to ensure interoperability of set top boxes.
<b>8.6. Specific rules for distribution systems in print media</b>	Law 47-585		Single copy selling editors can choose a cooperative system that treats each newspaper (daily or not) in the same way. Press sellers cannot refuse to sell any title.
<i>Note: This is one of the most important measures to guarantee an editor that its publication (even if it is a new or very small one) will be delivered in a press shop in the same condition as other successful ones.</i>			
<b>8.7. General competition law</b>			
<b>8.8. Policies fostering distribution systems (libraries, broadband networks...) - are these in line with EU state aid rules?</b>	Yes, due to an interpretation of Art 86 of the European treaty,		
<b>8.9. State Aids to distribution platforms and/or schemes (can be based on one or more of the following criteria:        - Regional        - Linguistic/minority        - National )</b>			

**TABLE 9. Supervision**

Measure	Source	Scope of application	Key features
<b>9.1. National Regulatory Authority</b>			CSA ( <a href="http://www.csa.fr">www.csa.fr</a> )
9.1.1. Structure/ organisation			
9.1.1.1. <i>Guarantees for independence</i>	Art. 5 Law 86-1067		Incompatible: political mandates, all professions, interests in firms relating to the broadcasting, cinema, press, advertising and telecommunications sector.
9.1.1.2. <i>Representation requirements</i>			
9.1.2. Credibility and efficiency			
9.1.2.1. <i>Sufficient resources</i>	Art 7 Law 86-1067		The CSA must have sufficient resources to perform his mission. The CSA budget is part of the state budget ( <i>Loi de finance</i> ).
9.1.2.2. <i>Tasks and duties</i>	Art. 3-1 Law 86-1067		<ul style="list-style-type: none"> <li>- Issuing broadcasting licences to radio and television companies</li> <li>- Management and allocation of frequencies for radio and television</li> <li>- Enforcement of broadcasting legislation</li> <li>- Ensuring the independence and impartiality of the public radio and TV sector</li> <li>- Promote free competition and the creation of non-discriminatory relationships between editors and distributors of services</li> </ul>
9.1.2.3. <i>Effective sanctioning powers</i>	Art 42-1 Law 86-1067		Private sector: Suspension, fine, withdrawal of authorization,...
	Art 48-1 Law 86-1067		Public sector: Fine, postponement of the programmes,...
9.1.3. Cooperation with other regulators	Yes, Competition Authority		
<b>9.2. Press Council</b>	No Press Council		
9.2.1. Broad representation of sector			
9.2.2. Sufficient resources			
9.2.3. Credibility			
<b>9.3. Competition Authority</b>			Conseil de la concurrence ( <a href="http://www.conseil-concurrence.fr/user/index.php">http://www.conseil-concurrence.fr/user/index.php</a> )
9.3.1. Structure/ organization ( <i>What this row should learn is whether there is a problem for media pluralism because NCA does not function properly; it should not contain an in-depth analysis of functioning of NCA!</i> )	Code de commerce		
9.3.2. Cooperation with other regulators	Direction générale de la concurrence, de la consommation et de la répression des fraudes ; (DGCCRF) au Ministère de l'économie.		