Newsletter

What is new under French and EU audiovisual landscape?

Regulatory and legal developments for broadcasters, distributors and producers in the audiovisual industry

Welcome to our newsletter focused on what is new and on the horizon for the audiovisual landscape in France and at the EU level. We take a close look at a range of the latest regulatory and legal developments that are likely to have an impact on broadcasters, distributors and producers in the audiovisual industry.

August 2026

What is new under French and EU audiovisual landscape?

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- ✓ Netflix and Disney take Belgian audiovisual financial contribution rules to the CJEU.
- ✓ European Commission publishes guidelines on how platforms safeguard content moderation safeguards for media providers.
- ✓ CJEU rules that retirement homes do not need a separate copyright licence for in-house TV retransmission.
- ✓ EU opens review of copyright framework and the digital single market.
- ✓ CJEU rules that offline streaming copy does not constitute private copying.

- ✓ Nine European states including France sign international convention on series co-production.
- ✓ French court rules that takedown orders must remain proportionate and exceptional.

What is new under French and EU audiovisual landscape?

- ✓ French audiovisual industry obtains 18-month blocking orders against seven illegal IPTV services.
- ✓ French courts apply strict two-step test in audiovisual 'idea theft' claims.
- ✓ ARCOM launches public consultation on the future of DDT and television broadcasting.
- ✓ ARCOM sets out tougher regulatory stance across platforms, media freedom and creation for 2026-2028.
- ✓ France's Advertising Ethics Jury upholds complaint against Volkswagen radio ad for sexist stereotyping.
- ✓ French lawmakers look to tighten advertising rules for sports betting.
- ✓ ARCOM lays groundwork to streamline anti-piracy cooperation in live sports enforcement.
- ✓ Paris court finds Spliiit liable for facilitating streaming subscription sharing across Netflix, Disney and Apple platforms.
- ✓ ARCOM calls for reform of the Audiovisual Media Services Directive.

CJEU rules that personalised streaming services carry full consumer withdrawal rights (1/3)

Streaming services with personalised recommendations qualify as "digital services" rather than "digital content" under **Consumer Rights Directive 2011**, the Court of Justice of the European Union (CJEU) ruled on 9 July, with significant consequences for how platforms handle consumer withdrawal rights.

The CJEU First Chamber in ***Sky Österreich v Verein für Konsumenteninformation*** (Case C-234/25) was asked to determine whether a subscription to a streaming service constitutes the supply of "digital content" or a "digital service" within the meaning of Directive 2011/83/EC.

Digital service

The CJEU held that a **streaming services** whose offering goes beyond mere stable provision and, where applicable, continuous provision of specific content constitute "digital services" rather than "digital content" within the meaning of Directive 2011/83/EU. A service featuring personalised recommendations and an evolving offering is dynamic in nature and falls within the classification. The distinction carries significant implications for consumers' right of withdrawal.

Why this distinction matters

The classification determines which withdrawal regime applies.

For digital content, the trader may obtain a waiver of the right of withdrawal from the start of supply, subject to the consumer's consent.

For a digital service, the exception only applies once the service has been fully performed and if performance began with the consumer's prior express consent and the consumer acknowledged that they would lose their right of withdrawal once the contract had been fully performed by the trader.

CJEU rules that personalised streaming services carry full consumer withdrawal rights (2/3)

Where the service has not been supplied in full, the consumer is only liable for an amount proportionate to what has actually been supplied.

The stakes are therefore considerable: classifying an offering as "digital content" allowed the right of withdrawal to be effectively neutralised almost systematically. This route is now closed to streaming services featuring personalised recommendations and an evolving offering.

The dynamic criterion

To distinguish "digital content" from a "digital service", the CJEU set aside two criteria; namely, the technical means of transferring and accessing digital data and the continuous duration of their provision. Instead, it favoured of a functional criterion: the **degree of involvement on the part of the trader**.

A digital service is characterised by the dynamic nature of its offering, which goes beyond the mere stable and continuous provision of specific content. As soon as the platform tailors its recommendations to the user's behaviour, offers personalised playlists or influences the way in which the consumer uses the service, the classification as a digital service applies.

Applied to Sky Österreich, whose offering includes regular updates and personalised recommendations, this criterion leads to the conclusion that it qualifies as a digital service, subject to verification by the national court.

Abuse risk

Sky Österreich argued that recognising a right of withdrawal would open the door to abuse: taking out a subscription for the sole purpose of watching a sporting event or a new series season, and then withdrawing.

CJEU rules that personalised streaming services carry full consumer withdrawal rights (3/3)

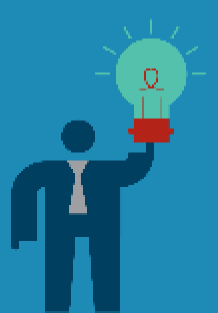
The court allayed this concern by clarifying the scope of the *EU v PE Digital* judgment (C-641/19, 8 October 2020): while pro rata temporis calculation for the price the consumer must pay for the received service remains the guiding principle, it is not the only mechanism available. The trader may also take into account the economic value of the content actually viewed, or even its market value in the context of an on-demand service outside a subscription. In these circumstances, the recognition of a right of withdrawal is not likely to undermine the fair balance between the interests of consumers and traders.

Retroactivity and risk of litigation

The provisions of the directive applied since 28 May 2022. Early termination clauses based on the classification of "digital content" have been unlawful since that date for dynamic services. Actions for an injunction and consumer claims remain possible within the limits of national limitation periods.

Compensation

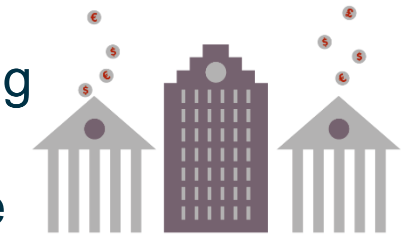
The court permits compensation to be based in part on the market value of the content actually viewed, rather than solely on a pro rata basis. Setting out the method of calculation in clear terms before any request for early performance is made reduces the risk for the service provider on the grounds of failure to provide information.



Why it matters: The court's reasoning appears to extend beyond audiovisual streaming Video games offering regularly updated content libraries and algorithmic recommendations and music streaming platforms that create personalised playlists or suggest content based on listening history are likely to fall within its scope.

Netflix and Disney take Belgian audiovisual financial contribution rules to the CJEU (1/2)

The Belgian Constitutional Court referred **five questions to the CJEU** for a preliminary ruling on 26 March in a case brought by Netflix, with The Walt Disney Company (Benelux) B.V. intervening in support, challenging the obligation to contribute financially to audiovisual production in the Fédération Wallonie-Bruxelles. The referral covers four main points of EU law.



Direct investments

The first relates to catalogue acquisitions as valid investments. It relates to whether article 13(2) of the **EU's Audiovisual Media Services Directive (AVMSD)** allows member states to permit providers to fulfil their financial contribution to audiovisual production in the form of direct investments in content, and not only by investing in new works to be produced but also by acquiring broadcasting rights for European works already produced.

Rights ban?

The second is whether there is a ban on acquiring broadcasting rights for works already produced for foreign-established providers. Does the AVMSD's proportionality requirement preclude a member state from denying that option to providers established in another Member State but targeting its audiences?

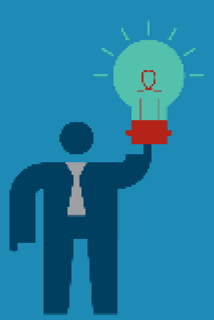
European and local works

The third is whether EU law precludes national legislation that imposes a fixed allocation between European works (65%) and local works (35%) for direct investment, but does not apply that allocation where the contribution is paid as a lump sum to a public institution.

Netflix and Disney take Belgian audiovisual financial contribution rules to the CJEU (2/2)

Deduction of contributions

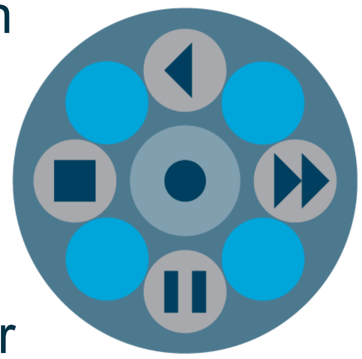
The fourth concerns deduction of contributions paid in another member state and whether EU law precludes a member state from refusing to take into account financial contributions already made by a provider in another member state.



Why it matters: The CJEU's answers (Case C-308/26) are expected within one to two years and will bear directly on the ongoing evaluation and forthcoming revision of the AVMSD.

At stake is how far member states may go in defining the scope and modalities of financial contribution obligations under the AVMSD. Depending on the CJEU's answers, national investment schemes across the EU may need to be substantially redesigned.

European Commission publishes guidelines on how platforms safeguard content moderation safeguards for media providers (1/2)



The European Commission published **guidelines (C/2026/901)** in February on the implementation of article 18 of the **European Media Freedom Act** (EMFA), setting out the procedural safeguards governing how very large online platforms (VLOPs) moderate content posted by media service providers (MSPs), including audiovisual media service providers. Before removing or restricting such content on the basis of their terms and conditions, VLOPs are required to notify the MSP in advance, state the reasons for the intended measure and allow a 24-hour window for the MSP to respond. To benefit from these safeguards, MSPs must submit a self-declaration through a dedicated functionality set up by each VLOP.

The guidelines are addressed to VLOPs and set out the essential design and operating features that the declaration functionality must have. They do not themselves create the article 18 safeguards, which are established by the EMFA itself. They are a practical implementation tool.

Scope and declaration content

The guidelines apply to VLOPs that provide access to media content (explicitly excluding providers whose coverage would be disproportionate or irrelevant to the objective of Article 18, such as online marketplaces or platforms providing adult content.

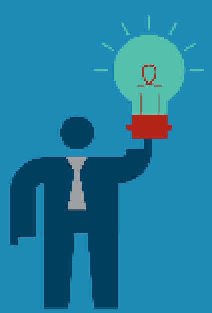
To activate the safeguards, MSPs are required to declare that, first, they exercise editorial responsibility, second, they (are editorially independent from member states, political parties and third countries and entities controlled or financed by third countries, third, that they are subject to regulatory oversight or adhere to a recognised co- or self-regulatory mechanism governing editorial standards, and, fourth, do not provide AI-generated content without human review or editorial control. The criteria under (iii) are alternative and not cumulative: an MSP need only satisfy one.

European Commission publishes guidelines on how platforms safeguard content moderation safeguards for media providers (2/2)

Handling and external oversight

VLOPs must process declarations on a continuous and individual basis. Decisions to accept, reject or invalidate a declaration must be based solely on the declared criteria and not on whether the MSP's content complies with the platform's terms and conditions.

Where a VLOP has reasonable grounds to doubt an MSP's regulatory or co- or self-regulatory status, it must seek confirmation from the competent national regulatory authority or the relevant co- or self-regulatory body before rejecting or invalidating the declaration. Civil society organisations and fact-checkers may also flag potential non-compliance with the declaration criteria.



Why it matters: For audiovisual media service providers distributing content via major platforms, the self-declaration is the gateway to enhanced procedural safeguards, including prior notice and a 24-hour response window before any content removal or restriction by VLOPs. The self-declaration requires editorial independence and regulatory oversight or adherence to a recognised co- or self-regulatory mechanism,

For platforms, there is an important nuance: the guidelines are not legally binding. The binding obligations derive directly from article 18 of the EMFA, which is a regulation with direct legal effect across all EU member states. The guidelines represent the Commission's authoritative but non-binding interpretation of how those obligations should be implemented in practice; however, departing from them is not without risk. The Commission has indicated it will monitor implementation through the structured dialogues under article 19 EMFA, and the guidelines are likely to serve as a benchmark in any enforcement or compliance assessment.

CJEU rules that retirement homes do not need a separate copyright licence for in-house TV retransmission (1/2)

An operator retransmitting satellite TV and radio broadcasts via an in-house cable network simultaneously, in full and without modification, to residents' rooms and treatment rooms does not perform a "**communication to the public**" within the meaning of article 3(1) of Directive 2001/29, the Court of Justice of the EU (CJEU) has ruled. No separate licence from rightsholders is therefore required.

The CJEU, in a judgment of 30 April 2026 (C-127/24), ruled in a case that arose from a claim by GEMA, the German collective management organisation for musical works, which sought to enjoin a retirement home operator from retransmitting broadcasts containing works in its repertoire without authorisation.

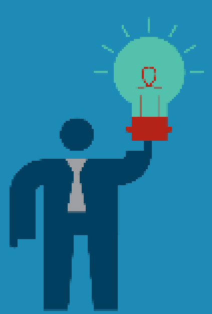
The court applied its established sequential test: a "communication to the public" requires either the use of a specific **technical means different** from that of the original broadcast, or, failing that, communication to a "**new public**".

On the first point, the court held that the retransmission does not employ a "specific technical means". Unlike, for example, a terrestrial broadcast retransmitted over the internet, it does not constitute a new, independent act of transmission. The retirement home situation is analogous to a hotel distributing a signal via in-room television sets, which the court had previously held does not amount to a distinct technical means.

On the second limb, the court concluded that there was no "new public" either. Residents of a retirement home who live there on a permanent basis are comparable to tenants who establish their residence, as distinct from the clientele of a hotel, a public house, a rehabilitation centre or short-term tourist accommodation, all of which the court has previously held to constitute a "new public”. They fall within the audience already taken into account by rightsholders when authorising the initial communication.

CJEU rules that retirement homes do not need a separate copyright licence for in-house TV retransmission (2/2)

The court also confirmed that the profit-making nature of the operator is not decisive and does not, by itself, trigger a licensing obligation, adding that recognising a "communication to the public" in such circumstances would result in undue remuneration for rightsholders, beyond the appropriate remuneration guaranteed by the directive.



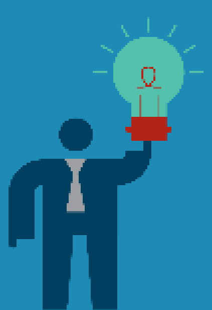
Why it matters: The ruling draws a clear line between two types of setting. In residential settings, where permanent residents are treated as comparable to tenants and form part of the audience originally contemplated by rightsholders, passive, in-house retransmission of broadcast content does not trigger additional licensing obligations under EU copyright law. In transient or commercial settings such as hotels, public houses, rehabilitation centres and short-term tourist accommodation, separate licensing obligations continue to apply.

EU opens review of copyright framework and the digital single market

The European Commission opened a call for evidence on 13 May with two related purposes: reviewing the **2019 Digital Single Market Directive**, as required by its article 30, which mandates a Commission review no sooner than 7 June, and preparing a targeted legislative initiative to modernise the EU copyright framework in light of technological and market developments. The review was additionally supported by a separate external stakeholder survey, which closed on 14 June. The call for evidence itself closed on 25 June.

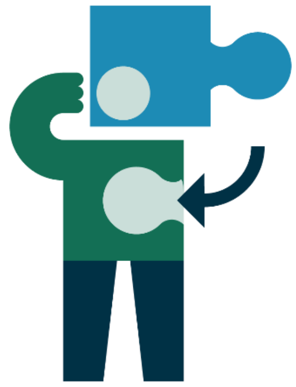
The first clear indications of the Commission's direction are not expected until later in the year or into 2027.

For the audiovisual sector, issues under consideration included strengthening licensing and enforcement of copyright in the context of generative AI, including remuneration for creators, facilitating access to licensed content for generative AI providers and protection of performers against AI-generated impersonations. It is also looking to reinforce remedies against online piracy of live content, including live sports.



Why it matters: This review is likely to shape the next wave of EU copyright reforms, with direct consequences for online platforms, rightsholders, AI developers and live-event organisers on issues ranging from licensing and enforcement to creator remuneration. The Commission's next steps are worth following as responses are processed and the legislative direction becomes clearer.

CJEU rules that offline streaming copy does not constitute private copying (1/2)



The Court of Justice in the EU ruled, in *Stichting Onderhandelingen Thuiskopievergoeding v. HP Nederland, Dell, Stichting Overlegorgaan Blanco Informatiedragers* (C-496/24) on 16 April, that the offline streaming copy function offered by paid streaming services does not fall within the **"private copying" exception** under article 5(2)(b) of the InfoSoc Directive 2001/29.

An **offline streaming copy**, meaning a copy stored locally on the user's device at the user's request but technically controlled by the platform through technological protection measures and unusable outside the service, does not constitute a reproduction for private use where the rightholder retains control sufficient to block access to the copy.

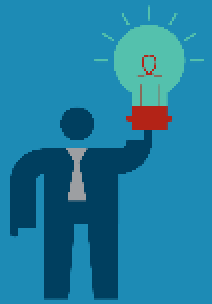
The court classifies this functionality as an act of making available to the public under article 3(1) of the InfoSoc Directive, rather than a mere reproduction covered by the private copying exception (a finding made subject to the verifications to be carried out by the referring court). Even assuming, for the sake of argument, that the offline copy could be treated as a reproduction, the court holds that the conditions of the private copying exception are nonetheless not met.

The copy is **generated and technically controlled** by the streaming provider through encryption and technological protection measures that prevent the user from moving, transferring or reproducing the file outside the service. The user does not hold the source of the copy, which remains with the streaming provider. Where the rightholder has retained control through technological protection measures (TPMs) and has thereby authorised the copy, no harm arises and consequently no fair compensation is due.

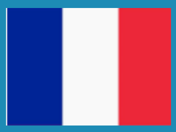
CJEU rules that offline streaming copy does not constitute private copying (2/2)

Separately, the court addresses the scenario in which no technological measures have been implemented by the rightholder: in that case, the fact that the rightholder received payment under a licence authorising the offline copy does not preclude the application of the private copying exception, provided that no technological measures have been implemented by the rightholder and consequently, the rightholder has been unable to provide authorisation for the copy.

In those circumstances, the private copying exception may still apply and the rightholder may be entitled to fair compensation by way of a levy, regardless of any licence fees already received from the platform.



Why it matters: The ruling draws a clear distinction based on the rightholder's effective control. Where TPMs are in place and the rightholder retains the ability to block access to the offline copy, no private copy levy may be claimed. Conversely, where no such measures have been implemented and the rightholder was unable to authorise the copy, the private copying exception (and the corresponding levy) may still apply, regardless of any licence fees paid by the platform. The court's approach is functional rather than formalistic: what matters is not whether a file exists on the user's device, but whether the rightholder has retained effective control over the work.



Nine European states including France sign international convention on series co-production (1/2)

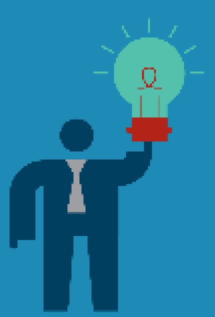
France, Georgia, Greece, Italy, Luxembourg, Malta, Montenegro, Poland and Portugal signed the new Council of Europe **Convention on Series Co-Production** on 26 March, establishing common rules for international co-productions of scripted, documentary and animation series between independent co-producers.

Convention features

- **National work treatment.** Qualifying series are treated as national works in each co-producing country and can access local public support schemes.
- **Independent producers.** Official co-productions must involve at least one independent co-producer. In bilateral deals, a co-producer's share must be between 10% and 90% of the budget, or between 5% and 80% for multilateral arrangements, and non-party coproducers cannot collectively hold more than 30% of the rights.
- **Rights, creative control and revenue transparency.** The co-production contract must grant each independent co-producer a share of ownership and exploitation revenues, with no perpetual licences, so that each can benefit from residual value. Independent co-producers must participate effectively in the key creative and production decisions. The parties must also ensure transparency of data on the distribution and exploitation of the work including audience data.

Nine European states including France sign international convention on series co-production (2/2)

The convention will enter into force once it has been ratified by three states. For multilateral co-productions, it will override existing bilateral agreements between the parties; for bilateral co-productions, existing bilateral agreements will continue to apply unless the parties elect to apply the convention instead. Non-member states of the Council of Europe may also be invited to accede after entry into force.



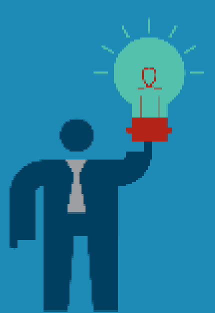
Why it matters: This is the first international legal instrument specifically designed for the series format. The convention is not yet in force and the ratification timeline remains uncertain, but platforms and broadcasters engaging in coproductions in or targeting European markets should monitor ratification progress and factor the convention's requirements into their co-production and commissioning strategies early on.

French court rules that takedown orders must remain proportionate and exceptional

A Paris Judicial Court ruling of 27 February refused to order the removal of an investigative report published online by France Télévisions and declined to impose a ban on its rebroadcast. The ruling was delivered under the accelerated procedure on the merits provided for by article 63 of French Law No. 2004-575 of 21 June 2004, known as the LCEN. The claimants, two agricultural companies, alleged an infringement of their property rights.

The court first clarified that article 6-3 LCEN empowers judges to order measures to prevent or stop harm caused by online content only where such harm is duly established, and that only a clear abuse can justify content removal. A mere risk of future harm is insufficient. In the present case, while one claimant established harm in respect of a single brief sequence in which the journalist entered the reception area of its premises and filmed a short exchange with a member of staff, the court dismissed all other allegations, including those relating to drone overflight and exterior filming, as unsubstantiated.

The judges then balanced the right to respect for private property against freedom of expression, stressing that the report contributed to a **debate of general interest** on agricultural and environmental practices and that the disputed footage was marginal and of limited seriousness. Ordering the full removal of the report and imposing a general ban on rebroadcast would therefore be **disproportionate**.



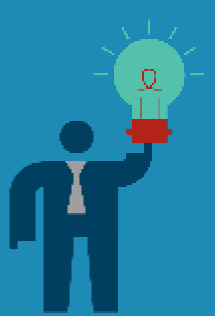
Why it matters: Online takedown orders under article 6-3 LCEN must satisfy a strict proportionality test. They are reserved for cases of clearly established harm and must be carefully balanced against freedom of speech, particularly where the content at issue relates to a matter of public interest. For platforms hosting or distributing audiovisual content, the ruling confirms that the threshold for court-ordered removal remains high and that freedom of expression carries significant weight when the content contributes to public debate.

French audiovisual industry obtains 18-month blocking orders against seven illegal IPTV services

18 months

The Paris Judicial Court, in a judgment of 7 May (No. 26/03029), ordered 18-month blocking measures against several illegal **internet protocol television (IPTV) services** acting on claims brought by audiovisual and cinema industry bodies. The National Federation of Film Editors or FNEF, Digital Video Publishing Union, or SEVN, Association of Independent Producers, or API, Union of Cinema Producers, or UPC, Independent Producers Syndicate, or SPI, and the state film agency, the National Centre for Cinema and the Moving Image, or CNC, were joined by rightsholders including M6 Group, Télévision Française 1, Canal+, national public broadcaster France Télévisions, and Disney. The services had provided unauthorised access to audiovisual or cinematographic works.

The court ruled on the basis of article L.336-2 of the French Intellectual Property Code and relied on detailed reports from the Association for the Fight Against Audiovisual Piracy, or ALPA, showing very high rates of infringing, often above 90%, and fully anonymised websites with no legal notices. It ordered French internet service providers (ISPs) to implement at their cost all appropriate effective measures to **prevent access from France** to the seven IPTV services. The order to the ISPs covers the listed domain names and all associated sub-domains and must be implemented within 15 days of service of the judgment.



Why it matters: This decision is a further illustration of the effectiveness of article L.336-2 of the French Intellectual Property Code as a tool for obtaining long-lasting, multi-operator blocking of pirate IPTV services. It reinforces rightsholders' ability to act through intermediaries where direct action against the operators of illicit platforms is impracticable. For platforms and broadcasters operating in France, the message from the courts is consistent: broad blocking relief against illegal services is readily available and robust content protection strategies remain essential.

French courts apply strict two-step test in audiovisual 'idea theft' claims (1/2)

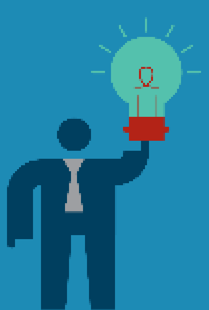
Two recent decisions from the French courts illustrate how strictly the concept of “**accidental encounter**” is applied in practice and confirm the firm distinction drawn between protectable expression and unprotectable ideas when assessing claims that a later audiovisual work has copied an earlier film or script.

The Paris Court of Appeal, in a judgment of 20 February 2026 (No. 24/04655), dismissed claims by CinéMag Bodard, holder of rights in the 1986 film "L’Unique", against the Black Mirror episode “Rachel, Jack and Ashley Too”. At first instance, the claim had been dismissed on the basis of accidental encounter, the court finding that the limited availability of "L'Unique" made it practically inaccessible to the foreign creators of the episode.

The Paris Court of Appeal confirmed the dismissal, but on different grounds. It accepted that "L’Unique" had in fact been accessible via cinema release, festival screenings, VHS editions, video on demand availability and its YouTube trailer, but held that **mere access is not enough**: rightholders must still demonstrate that a **specific combination of original expressive elements** has been reproduced. The alleged similarities, a singer and a hologram, amounted to ideas and genre tropes belonging to the common stock of science fiction. The court observed that the hologram is central to the plot of "L’Unique" but appears only at the end of the "Black Mirror" episode, which focuses instead on artificial intelligence (AI), pop culture and the relationship between a teenager and an AI doll. Plots, narrative structures, characters and their psychology were found to differ materially. The free-riding and unfair competition claims were likewise rejected, the court finding no individualised economic value to have been misappropriated.

French courts apply strict two-step test in audiovisual 'idea theft' claims (2/2)

Along similar lines, the Paris Judicial Court, in a judgment of 15 April 2026 (**No. 22/11783**), dismissed a claim that the Canal+ series “VTC”, produced by Bridges, infringed the film "Ubeur". The court partly denied the claimant standing to assert economic rights in the feature film on the ground that he relied on the originality of sound ambiences inseparable from the contributions of musical co-authors who had neither been joined to the proceedings nor shown to have granted their rights. On the merits, the court confirmed that infringement requires **proof of both access and copying**. Although "Ubeur"’s script had been deposited with France's Civil Society of Multimedia Authors, or SCAM, in 2017 and later promoted online, the first communication of its synopsis to a third party occurred on 24 May 2019, by which time the VTC script was already finalised and no evidence showed that Bridges had knowledge of any element of "Ubeur" before 29 May 2019. The similarities were accordingly treated as the result of an “accidental encounter”, and all claims, including both moral and economic rights, were dismissed.



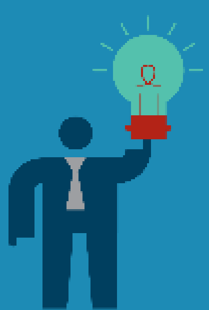
Why it matters: These rulings confirm a strict two step test for 'idea theft' claims in the audiovisual sector. Proof of access to the earlier work is necessary but not sufficient: courts require evidence that a sufficiently original combination of expressive elements, as distinct from common tropes or themes, has been reproduced. A practical point also emerges from the VTC case: claimants who rely on the originality of sound ambiences must ensure that the musical co-authors’ rights are properly joined or cleared before the court.

ARCOM launches public consultation on the future of DTT and television broadcasting

France's audiovisual regulator Arcom opened a public consultation on 24 April on the **future of digital terrestrial television (DTT)** and the broader television landscape, which closed on 15 June.

The consultation addresses in particular the reallocation of radio spectrum that will become available when the broadcast authorisations of six national digital terrestrial television (DTT) channels – TF1 Séries Films, L'Équipe, 6Ter, RMC Story, RMC Découverte and RMC Life – expire on 11 December 2027. Any new allocation requiring a public call for applications under article 30-1 of the Law of 30 September 1986 on the Freedom of Broadcasting (Law No. 86-1067).

It also feeds into a broader reflection on the future of television as a medium, covering distribution conditions, regulatory reform to help national players compete with global platforms, and a possible extension of the "services of general interest" framework to local channels, with a white paper by the Arcom expected in the first half of 2027.



Why it matters: Stakeholders in the audiovisual sector will want to monitor the outcomes closely. Contributions will feed directly into both the upcoming spectrum reallocation process, under which the current channel operators are not guaranteed to retain their frequencies, and the longer-term regulatory framework for DTT and television broadcasting. The regulatory reform dimension is equally significant for platforms: Arcom has explicitly framed the consultation as an opportunity to address perceived regulatory asymmetries between traditional broadcasters and global streaming services, and the white paper may inform future legislative or regulatory adjustments affecting the competitive landscape.

ARCOM sets out tougher regulatory stance across platforms, media freedom and creation for 2026-2028 (1/2)

Arcom presented its **strategic plan for 2026-2028**, built around three priority areas.

The first focuses on better protecting audiences in audiovisual and digital spaces, with priority action on **minors, online hate and public health**.

The second aims at guaranteeing citizens' access to **reliable, pluralist and independent information**, including oversight of public service broadcasting and media literacy.

The third concerns supporting the financing and protection of creation and the competitiveness of French audiovisual players, covering **piracy enforcement, platform contribution obligations, digital terrestrial television renewal and radio's digital transition**.

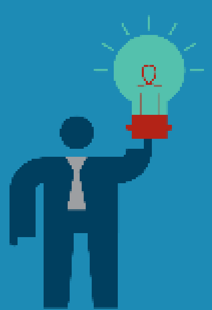
On piracy, Arcom intends to simplify blocking procedures, increase intermediary involvement and leverage European law tools. It also plans to reassess the graduated response mechanism. This is an educational warning system under which Arcom sends escalating warnings to internet subscribers whose connections are identified as being used for illegal peer-to-peer downloading. In cases of persistent infringement, Arcom may refer the matter to the public prosecutor, but it does not itself impose criminal sanctions.

The plan acknowledges that the graduated response has succeeded in reducing peer-to-peer piracy and states that Arcom will assess its future in light of both its educational effectiveness and developments in usage and the legal framework.

ARCOM sets out tougher regulatory stance across platforms, media freedom and creation for 2026-2028 (2/2)

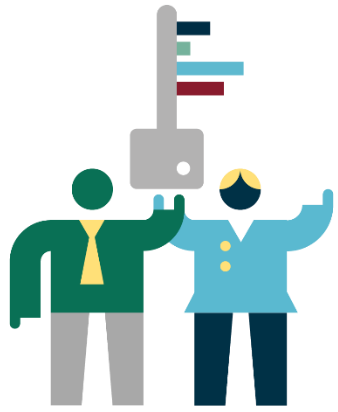
On platforms, the regulator will focus on consolidating contribution obligations for European works, strengthening press publishers' neighbouring rights and monitoring AI-related copyright issues, particularly the use of protected works in AI training and in the operation of AI systems.

Arcom also aims to scale up its digital regulatory capacity through use of AI tools, all within a constrained budgetary environment.



Why it matters: Arcom is signalling a distinctly more assertive phase of regulation. Platforms, broadcasters and rightsholders should expect tighter oversight, more data and process demands, and evolving compliance expectations over 2026-2028. Two points stand out. First, Arcom stated explicitly that the "next few months must be those of results" in DSA enforcement. Second, Arcom intends to contribute actively to the revision of the Audiovisual Media Services Directive, with proposals that would apply competition rules based on the country of the targeted public rather than the country of establishment.

France's Advertising Ethics Jury upholds complaint against Volkswagen radio ad for sexist stereotyping (1/2)



France’s Advertising Ethics Jury (JDP) in its opinion No. 1126/26 of 15 April, upheld a complaint against a Volkswagen France radio advertisement promoting its Polo car model. The advertisement depicted a woman hiking alone at night without a compass or sense of direction, before concluding with the tagline: "You can choose a Volkswagen. It's very well equipped!", drawing a parallel between an alleged woman's lack of direction and the car's reliability, and suggesting that choosing a Volkswagen is, unlike relying on the woman, an easy decision.

Volkswagen France, although duly notified of the complaint on 19 March, did not submit any observations. The ethics jury upheld the complaint entirely without any counter argument from the advertiser.

The jury found the ad in breach of France's independent advertising self-regulatory organisation ARPP's guideline on **image and respect for the individual**, which prohibits advertising from endorsing the idea of a person's inferiority on grounds of sex, reducing individuals to objects or promoting sexist attitudes.

t held that the ad, taken as a whole, was sexist, discriminatory and reductive towards women, relying on the classic stereotype of women lacking a sense of direction. It noted that the humorous or second-degree framing of the message did not mitigate but, instead, amplified its demeaning character, reducing the woman to an object associated with a unilateral, commercial and utilitarian vision.

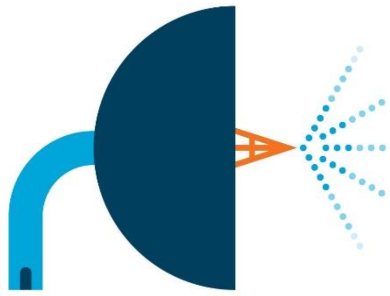
France's Advertising Ethics Jury upholds complaint against Volkswagen radio ad for sexist stereotyping (2/2)

The JDP is a self-regulatory body. Its opinions are not administrative decisions or judgments and have no binding legal force. The practical consequence of an upheld complaint is reputational rather than legal: the opinion is published on the JDP's website and the advertiser is expected (though not compelled) to withdraw or amend the offending advertisement.

Why it matters: The opinion is a pointed reminder that humour or irony will not shield advertisers from adverse findings where the underlying message perpetuates gender stereotypes. Advertisers and their agencies should not assume that a "second degree" framing neutralises a discriminatory message; if anything, the JDP found it made matters worse.

French lawmakers look to tighten advertising rules for sports betting (1/2)

A bill that would significantly restrict **advertising for sports betting and other gambling services** was tabled before the National Assembly. On 9 June Bill No. 2899 has been referred to the French Parliament's Law Committee for consideration.



The bill would rewrite article L. 320-12 of the Internal Security Code to reverse the current approach: instead of an authorisation subject to limited exceptions, commercial communications for licensed gambling operators would only be permitted on a closed list of media.

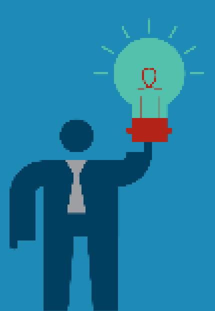
On television and radio, there would be two distinct restrictions. A ban during the **15 minutes before** and after sports events, sports programmes and replays, which is a new restriction not currently provided for under French law, would apply, alongside a ban **during programmes aimed at minors** within the meaning of article 15 of the Law of 30 September 1986 on the Freedom of Broadcasting that codifies the existing regulatory framework. Commercial communications would also be permitted in the written press excluding publications aimed at a young audience, in physical betting outlets such as in-store posters and signage, and on sports gambling operators' own websites, specifically those authorised by the French gambling regulator, the ANJ.

The bill would impose broader restrictions on advertising and commercial communications in favour of gambling operators. These would include a prohibition on all advertising on public electronic communications services, including **social media and online platforms**, with the exception of operators' own websites; any promotion by **influencers**, whether direct or indirect; operators from financing or sponsoring events specifically aimed at minors; any reference to financial gains, welcome bonuses, refunded bets, free betting credits or promotional codes, as well as the use of public figures, professional athletes or celebrities; and the use of a gambling operator's name, brand or distinctive sign to designate sports infrastructure, events or competitions in France.

French lawmakers look to tighten advertising rules for sports betting (2/2)

Separately, the bill expands the scope of infractions in respect of which associations, including those fighting addiction, consumer associations and family associations, may exercise their existing civil action rights under article L.324-9 of the Internal Security Code, by removing the current limitation of that provision to infractions under article L.324-8 alone and extending it to all provisions of the Code.

No formal legislative timetable has been set for the standalone Bill No. 2899. Related advertising restrictions had been tabled as amendments to the broader proposed legislation on the governance of professional sports, known as PPL Sports, adopted on 20 July, but were explicitly rejected during the parliamentary joint committee of 8 July as being too restrictive. Bill No. 2899 therefore remains the sole active legislative vehicle for the restrictions described above.



Why it matters: If adopted, this bill could materially affect advertising revenues for broadcasters and online platforms reliant on sports betting advertising. The rejection of the advertising restrictions from the PPL sport pro reduces the immediate legislative risk, but the standalone bill remains active and has attracted cross-party support, making it one to watch closely as it progresses through the legislative process.

ARCOM lays groundwork to streamline anti-piracy cooperation in live sports enforcement (1/2)

Arcom adopted non-binding **Recommendation No. 2026-228** on 6 May, pursuant to **article L.333-10 of the French Sport Code** and Articles L.331-12 of the French Intellectual Property Code, together with **two template agreements** published as an addendum. The aims is to facilitate cooperation between rightsholders and technical intermediaries, including access providers, search engines operators, alternative domain name system (DNS) service providers and virtual private network (VPN) in implementing court-ordered blocking and delisting measures against illegal sports streaming.

The two model agreements are intended to serve as a basis for negotiation: one between **rightholders and search-engine operators**, and another between **rightholders and intermediaries** implementing blocking measures such as alternative DNS resolvers and VPN providers. The templates structure both the pre-litigation and litigation phases. They define the types of measures intermediaries may take to prevent search-engine indexing of illicit services whose main purpose, or one of their main purposes, is the unauthorised streaming of sports events; and to block access to those services. They also set out how identification data for targeted services are to be transmitted to each intermediary.

Arcom has also developed a centralised system listing all domain names subject to blocking or dereferencing requests pursuant to judicial decisions and is inviting all intermediaries to connect to this tool under a standard interface agreement setting out the technical terms of use.

The recommendation is explicitly framed by Arcom as anticipating the enactment of new legislation to strengthen the anti-piracy framework. The PPL *sport professionnel*, which was adopted by joint committee (*commission mixte paritaire*) on 20 July, directly legislates the framework that the recommendation pre-emptively implements.

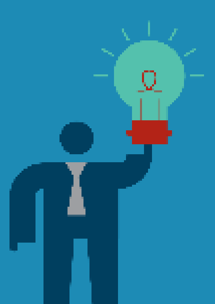
ARCOM lays groundwork to streamline anti-piracy cooperation in live sports enforcement (2/2)

Article 10 of the CMP text introduces a fully **automated blocking system** placed under Arcom's direct control and responsibility, through which identification data for illicit services are transmitted to intermediaries for real-time blocking during live sporting events without any further judicial step being required once the initial court order is in place.

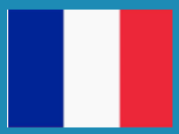
It also gives Arcom a **financial sanction** power against intermediaries that fail to comply with their blocking obligations, of up to €75,000 or 1% of worldwide turnover, whichever is higher, rising to €150,000 or 2% of worldwide turnover for repeat infringements within five years.

Article 10 also legislates the model agreement mechanism that the recommendation pre-emptively implements, requiring Arcom to maintain an up-to-date centralised list of all identification data for services subject to blocking measures and to make it available to signatories of voluntary agreements. It extends blocking obligations expressly to VPN providers and other circumvention services confirming that this category of intermediary, recently subject to blocking orders by French courts, would be expressly brought within the statutory framework.

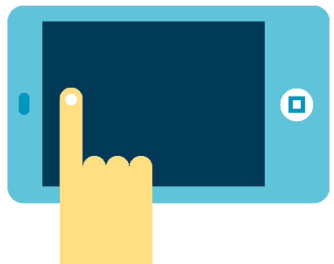
The recommendation and the statute form a single integrated framework: the recommendation provides immediate contractual infrastructure ahead of the law's promulgation.



Why it matters: For rightsholders in the audiovisual sector, the template agreements offer a ready-made contractual framework to streamline blocking and dereferencing operations. For intermediaries, Arcom expects increased and more coordinated involvement in anti-piracy enforcement. The legislation will back that expectation with financial sanctions.



Paris court finds Spliiit liable for facilitating streaming subscription sharing across Netflix, Disney and Apple platforms (1/2)



The Paris Judicial Court on 29 May (Case No. 22/07774) held that Spliiit, which operates a platform enabling users to share access to their Apple, Netflix and Disney subscriptions in return for reimbursed shares managed via its micropayment system, was liable in tort for complicity in breaches of those platforms' terms and conditions (T&Cs).

The court found that Spliiit deliberately facilitated sharing between unrelated third parties despite contractual limits to household or family sharing, and did not verify that "co-subscribers" belonged to the same household, thus incurring liability under article 1240 of the Civil Code.

The court also found trademark infringement: by using Apple, Netflix and Disney word and device marks in a way suggesting partnerships, Spliiit created a likelihood of confusion as to commercial ties.

The court further held that Spliiit committed **unfair competition via misleading commercial practices,** notably by suggesting on its website that sharing through its platform was lawful and that Spliiit guarantees compliant and secure use, thereby wrongly reassuring consumers about the lawfulness of subscription sharing.

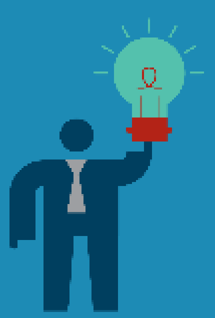
Claims based on free-riding were dismissed: the court considered that Spliiit offered a complementary service with its own investment and added value, so that any profit stemmed from the established infringements rather than pure free-riding.

Paris court finds Spliiit liable for facilitating streaming subscription sharing across Netflix, Disney and Apple platforms (2/2)

Spliiit was ordered to cease using the claimants’ trademarks, to stop facilitating sharing in breach of their T&Cs, and to make corrections to its website, including removal of misleading “Is it legal?” statements**.**

The court also ordered Spliiit to pay the claimants €785,000 in provisional damages on account of the full loss yet to be quantified and to disclose its financial data under penalty payment to enable the claimants to quantify their loss. This means that the final damages figure may be substantially higher.

Spliiit announced that it would appeal the judgment before the Paris Court of Appeal.



Why it matters: The ruling sends a strong signal in France against account-sharing monetisation platforms. Facilitating systematic breaches of platform terms and conditions, combined with suggestive branding and misleading reassurance on legality, may trigger liability on multiple grounds: complicity in contractual breach, trademark infringement and unfair competition. The provisional nature of the damages award and the pending appeal mean the ruling is not yet final, but the first-instance judgment carries immediate injunctive effect and the financial exposure may increase significantly once Spliiit's financial data are disclosed.

ARCOM calls for reform of the Audiovisual Media Services Directive (1/4)

Arcom submitted **a detailed contribution** to the European Commission's public consultation on the revision of the Audiovisual Media Services Directive (AVMSD) on 26 May calling for targeted regulatory changes. The consultation closed earlier in May.

The regulator takes the view that the current definitions no longer reflect market realities and recommends explicitly incorporating the concepts of user interfaces, media service distributors and audio services including radio and podcasts into the directive, so that harmonised obligations can be applied to them.

Influencers and advertising

Arcom advocates the creation of a European legal sub-category of "commercial influence", modelled on the French law of 2023, and the extension to on-demand audiovisual media services (ODPS) and video-sharing platforms (VSPs) of the advertising rules currently applicable only to linear services.

Measures include requiring platforms and influencers to use the commercial communication disclosure feature to ensure greater **transparency**; regulating new influencer practices that, through commercial communications, direct users to content on other platforms that may be harmful to minors; and extending to VSPs and all AVMS providers the advertising restrictions currently applicable to linear services, including covering alcohol, nicotine, financial products and cosmetic surgery, as well as rules on sponsorship and product placement.

ARCOM calls for reform of the Audiovisual Media Services Directive (2/4)

General interest media

Arcom calls for the harmonisation at European level of the obligations to promote services of general interest (SGI) and their programmes.

It recommends extending the requirement for appropriate prominence of services of general interest (SGI) obligations to VSPs, requiring them to configure their **recommendation algorithms** accordingly. It includes audio services within the scope of SGI, with a focus on their discoverability on smart speakers, audio-streaming platforms and in-car infotainment systems.

It stablishes centralised European lists of designated SGI and the relevant interfaces for each member state. And it enshrines the country-of-destination principle and derogation from the country-of-origin principle to ensure effective cross-border implementation of provisions on SGI visibility.

European works quotas

On content quotas, Arcom notes the positive effects of the current AVMSD framework. Contributions from foreign on-demand services now account for nearly 25% of total expenditure recognised under the French framework. Arcom recommends that this chapter is not reopened during the review. Should the Commission nevertheless decide to do so, Arcom recommends aligning the quota for European works at 50% for all operators, both linear and on-demand, compared with the current 30% for on-demand services.

In parallel, two proposed European resolutions were voted by the French National Assembly's European Affairs Committee on 10 and 12 June.

ARCOM calls for reform of the Audiovisual Media Services Directive (3/4)

The principal **resolution (No. 2741)** calls on the French government to pursue an AVMSD revision including reaffirming the European cultural exception and the specificity of cultural goods and services, as well as opposing transformation of the directive into a regulation, to preserve member states' capacity to adapt cultural policies; aligning platform obligations with those of linear broadcasters to eliminate regulatory asymmetries.

The reservation also looks to preserve and strengthen investment obligations for all AVMS providers, including those established in other member states or third countries. It enables member states to guarantee appropriate prominence for SGI, extended to user interfaces such as connected TVs and content-sharing platforms. It imposes transparency obligations on all distributors, including ODPS and linear services, for the transmission of audience and consumption data to rightsholder. And it seeks to maintain the exclusion of the audiovisual sector from the Geo-blocking Regulation.

European Commission signals stance on prominence rules and AVMSD reform

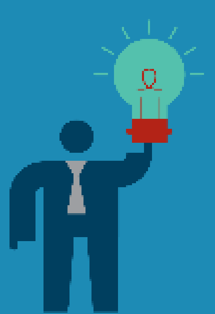
The European Commission is adopting an "open mind" approach to services of general interest (SGI) prominence. Anna Herold, head of the Commission's audiovisual unit and the official responsible for the Audiovisual Media Services Directive (AVMSD) revision, at an European Broadcasting Union (EBU) event on 9 June, acknowledged that "the current rules are not working" on SGI prominence and called for "smart solutions that balance the need for a clear, binding European framework with national sensitivities".

EBU director general called for SGI obligations to be made binding and extended to the widest possible range of interfaces and algorithms, including connected TVs, cars and artificial intelligence (AI) assistants. France, Germany and nine other member states had earlier in May submitted joint demands including VLOPs and AI within SGI scope. SGI prominence is confirmed as a Commission priority for the revision.

ARCOM calls for reform of the Audiovisual Media Services Directive (4/4)

RSB issues negative opinion

In a significant procedural development, the Commission's Regulatory Scrutiny Board (RSB) issued a negative opinion on the draft impact assessment for the AVMSD revision. A second submission is expected before the end of July. While a second submission is standard and does not automatically block a proposal, it introduces uncertainty as to whether the autumn 2026 revision timetable can be maintained.



Why it matters: The AVMSD revision is one of the most consequential legislative files currently in progress. The Commission's signals on SGI prominence suggest future obligations could go significantly further than existing rules. The RSB's negative opinion introduces real uncertainty about the autumn 2026 timeline. Moreover, given its potential impact on financial contribution obligations, advertising rules and SGI visibility, all stakeholders should monitor developments closely.

If you would like to discuss any of the issues raised in this newsletter, please contact one of the experts listed below or your usual Osborne Clarke contact.

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