

Executive Summary¹

By letter of October 22nd, 2021, the Prime Minister entrusted a mission to the General Inspectorate of Cultural Affairs (IGAC) and the General Inspectorate of Finance (IGF) on the reform of the funding of public broadcasting. The following elements summarize the main findings and orientations of the mission.

The audio-visual sector is being disrupted by rapid changes: technological developments allowing new modes of access to programmes, changes in the habits of viewers favouring nomadic consumption, particularly among young people, growth in de-linearised offer and decrease in individual listening time. At the same time, the market is becoming concentrated and internationalized with the emergence of platforms, increasing the fragmentation of audiences already engaged with the development of pay television. These transformations carry risks: loss of revenue, pressure on the cost of programs, threats on the diversity of content.

In this context, public broadcasting plays a key role. In view of the distrust of journalists, especially regarding their independence, it is highly expected to provide quality and reliable information. Internationally, the information war is a strategic issue as Russia and China develop their presence in France's traditional areas of influence and our European partners strengthen their resources. Public broadcasting also plays an economic role in the audio-visual production sector (4,500 companies, 108,000 jobs, turnover of 3.1 billion euros) as well as in the financing and distribution of cinema and the remuneration of authors.

89% of public broadcasting is financed through an audiovisual licence fee (« contribution à l'audiovisuel public ») which is a tax paid by 23 million households (out of 29.6 million households), at the rate of 138 euros (reduced to 88 euros overseas), for receipts of approximately 3,1 billion euros per year in 2020, to which is added a State compensation of 53.5 million euros.

Its reform is made necessary by the repeal of the housing tax in 2023 (the recovery of the CAP is backed by the TH) but also by the limits of the current system:

- ◆ the audiovisual licence fee has been a dynamic resource but its base is eroding due to the decrease in the rate of household television equipment ;
- ◆ the additional budgetary appropriations relating to the external audio-visual sector and to the compensation for the elimination of advertising on France Télévisions after 8:00pm have been progressively abolished, so that public resources allocated to operators have fallen by 16% in real terms since 2009;
- ◆ the mechanism of "resource guarantee" is in fact disconnected from tax revenues stemming from the licence fee and operates as a balancing grant to comply with the expenditures set out in the objectives and means contracts. Moreover, these contracts which were intended to provide a multi annual perspective were rarely respected ;
- ◆ the licence fee presents with legal weaknesses, whether it concerns the conformity of the fee's criteria for tax relief that favour taxpayers over the age of 60 in the light of the principle of equality before taxation or the application of value added tax (VAT) to the fee;
- ◆ the licence fee does not take into account the actual capacity of households to pay, resulting in a degressivity of its average rate, a situation that the granted reductions only partially correct;
- ◆ eventually, maintaining the audio-visual licence fee as it is would reduce the management savings that the tax administration expect as a result of the removal of the housing tax.

¹ Traduction pour information. Seule la version française engage la mission.

A comparison with our European neighbours shows that France is in an intermediate position, both in terms of the resources devoted to public broadcasting and their predictability and its independence. The existence of a strong public broadcaster, historically financed by the licence fee, is a European specificity that sets us apart from other Western countries (notably the United States). Since the 2000s, reforms in the financing of public broadcasting have challenged this model. Some countries have made the fee universal by collecting it on each household (Germany, Switzerland) or on each citizen according to his income (Finland, Sweden), others have kept a link with reception capacity (United Kingdom, Italy). A few countries have chosen to budget for a long time, such as Spain and the Netherlands, which are characterised by a lower level of public broadcasting, or more recently Denmark or Norway. Finally, guarantees of predictability of resources and thus independence are often stronger in Germany and the United Kingdom, where they are of a constitutional level.

During the presidential campaign, the President of the Republic promised to repeal the audio-visual fee and to strengthen the independence of the public broadcasting by giving it guarantees on its multi-year funding and on the lack of infra-annual regulation. **The principle of the independence of public broadcasting is protected, including in its financial dimension,** by the rules of both the European Union and the Council of Europe, but also by the jurisprudence of the French Constitutional Council. If the French Constitution does not impose a particular method of financing public broadcasting, there is a risk that the Constitutional Council will censor the replacement of a dedicated resource by funding from the State budget. However, this risk could be limited by setting up some safeguards to ensure that public audio-visual undertakings have sufficient resources and predictability to carry out the public service tasks entrusted to them.

The reform of the financing of public broadcasting must therefore take into account the three pillars of financial independence: the adequacy of resources to missions, the predictability of resources and the absence of infra-annual regulation.

1/ In order to ensure a level of resources adapted to the missions, the mission proposes to create an independent technical committee to estimate this level. The missions of this committee would be to validate the definition of requirements on a multi annual basis over the period of the objective and means contract, to carry out a mid-term implementation review of the contract and to deliver an opinion in case the Government should decide to depart from the financial trajectory set up in the objective and means contract. Procedural guarantees could make its opinions *de facto* binding (publication of both committee opinions and government reports explaining the reasons for deviating from the trajectory). To the extent that it is involved in the process of drawing up finance laws, its existence and tasks should be included in the Organic Law on Finance Laws (LOLF), modelled on the High Council for Public Finance. It could be associated with the Regulatory Authority for Audiovisual and Digital Communication ("*Autorité de régulation de la communication audiovisuelle et numérique*" – ARCOM) and would be composed of experts appointed by ARCOM, the Court of Auditors, the chairmen of the finance and culture committees of the Parliament, as well as by the President of the Economic Social and Environmental Council.

2/ The mission proposes to reinforce the pluriannuality which is necessary for the predictability of the resources of the public broadcasting by setting the duration of the objective and means contracts to five years, starting 18 months after the presidential election. The contract trajectory should also be included in a normative text, namely the public finance programming law or, at least, an ordinary programming law. If the ambition is to make this trajectory binding, a constitutional revision would be necessary.

3/ Finally, the principle of exemption of public broadcasting from sub-annual regulation (freezing and cancellations of appropriations) stated by the President of the Republic, could be guaranteed by inserting an article in the LOLF exempting public broadcasting companies from these regulations. The cancellation of appropriations through a rectificative finance law could still be possible, but would then be subject to the opinion of the independent technical committee mentioned above.

The implementation of these guarantees for independence requires a preparation period. This is why a transition scenario is necessary : it could be to allocate to public broadcasting companies a fraction of existing tax (VAT or IR), pending the establishment of a sustainable scenario. The organic legal framework allows to do to this until the finance law for 2025.