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Press release

## PRESS DISTRIBUTION

### **Equalisation: the Conseil d'État does not forward the matter of a preliminary ruling on constitutionality raised by the firms Messageries Lyonnaises de Presse and MLP to the Constitutional Council, and upholds the Arcep Decision**

Paris, 6 July 2023

The Bichet Act as amended in 2019<sup>1</sup> provides for the creation by Arcep of a “balanced cost distribution” mechanism, which consists of distributing the specific, unavoidable costs induced by the distribution of daily newspapers, between all print media companies that belong to press grouping cooperatives using the services of approved press distribution companies.

The calculation rules for the balanced cost distribution mechanism between print media companies was adopted in November 2021<sup>2</sup>; the equalisation amount for fiscal 2021 was adopted through an Arcep Decision<sup>3</sup> in September 2022<sup>4</sup>.

The firms Messageries Lyonnaises de Presse and MLP applied for a priority preliminary ruling on the issue of the constitutionality of this Decision to France’s highest administrative Court, the Conseil d’État, requesting its annulment.

**On 29 June 2023, the Conseil d’État concluded that there was no basis for forwarding the requested preliminary ruling on constitutionality, and rejected the appeal of the Arcep Decision filed by the firms, Messageries Lyonnaises de Presse and MLP**

The Conseil d’État concluded that the issue of a priority preliminary ruling on the issue of the constitutionality raised by the applicants was not genuine.

The Conseil d’État also confirmed the legality of the challenged Decision, which brings into force the rules set by the Decision of November 2021. It also concluded that the challenged Decision did not require the prior public consultation, that Arcep could have, without acting unlawfully, abstained from factoring in the aid given to the print media sector instituted by the Decree of 25 April 2002 when calculating the equalisation amount, and that it was accurate to include the Crépy-en-Valois hub in the scope of the considered costs.

#### **Associated documents:**

- [Conseil d’État Decision](#)
- [Arcep Decision No. 2022-1867 of 21 September 2022](#)

#### **Arcep at a glance**

The Regulatory Authority for Electronic Communications, Postal Affairs and Print Media Distribution (Arcep), a neutral and expert arbitrator with the status of independent administrative authority (IAA), is the architect and guardian of internet, fixed and mobile telecoms and postal networks in France.

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<sup>1</sup> Act No. 2019-1063 of 18 October 2019 on the modernisation of press distribution

<sup>2</sup> [Framework Decision No. 2021-2531 of 25 November 2021](#)

<sup>3</sup> [Decision No. 2022-1867 of 21 September 2022](#)

<sup>4</sup> In accordance with Para. 3 of Article 18 of the Bichet Act.

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