
Press release

PRESS DISTRIBUTION

Equalisation: the Conseil d'Etat validates the Arcep decision

Paris, 18 November 2024

In its decision of 14 November 2024, the Conseil d'Etat has rejected the appeals of the firms Messageries Lyonnaises de Presse, MLP, Planeta de Agostini and Hachette Collections of the Arcep decision regarding the equalisation amount¹.

The Bichet Act as amended in 2019² 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 pooled distribution 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 2021³. The equalisation amount for fiscal year 2022 and the monthly instalments to be paid from November 2023 through October 2024 were adopted through an Arcep Decision in October 2024.

The Conseil d'État confirms the legality of the Arcep decision, which consists of not factoring in the aid given to the print media sector when calculating the equalisation amount

In their action for annulment of the decision setting the equalisation amount for fiscal 2021, the firms Messageries Lyonnaises de Presse and MLP had, similarly, contested Arcep's decision to abstain from factoring in the aid given to the print media sector, instituted by the Decree of 25 April 2002, when calculating the equalisation amount.

In its decision, the [Conseil d'Etat concluded, as it did in its decision of 29 June 2023](#), that “the circumstance whereby a portion of this aid would be effectively credited to that company, which acquired the firm Presstalis, by virtue of the protocol instituting a conciliation approved by the Commercial Court of Paris on 14 March 2018, would not be sufficient to establish that the purpose or effect of this aid is to compensate the same costs as those distributed between publishers for the sake of equalisation. As these aids have neither the same purpose nor the same scope of application nor, by law, the same beneficiary, as the balanced cost distribution mechanism instituted by Paragraph 3 of Article 18 of the Act of 2 April 1947, the applicant companies have no basis for claiming that by not taking this aid into account when defining the equalisation amount of the specific, unavoidable costs induced by the distribution of daily newspapers in France, or in the method used to calculate it, the Arcep decision is vitiated by illegality.

The Conseil d'Etat validates Arcep's inclusion of encyclopaedias in the balanced cost distribution mechanism

The firms Hachette Collections and Planeta de Agostini contested Arcep's inclusion of encyclopaedia publishers among those required, under its decision, to pay the equalisation amount.

The Conseil d'Etat concluded that as, under Article 2 of the Bichet Act as written in 2019, “periodical encyclopaedias” must be viewed as press publications for which publishers are required, when using pooled distribution, to participate in the balanced cost distribution mechanism between press companies, Arcep has neither misunderstood its area of competence nor the provisions of the abovementioned Law.

The Conseil d'Etat also concluded that the “inclusion of the sale of “periodical encyclopaedias” in the balanced cost distribution mechanism was not decided by Arcep when issuing the contested decision,” but rather came as the result of the Bichet Act as written in 2019. Furthermore, the applicant companies are not justified in maintaining that the decision being challenged is irregular due to Arcep having failed to implement the consultation procedure required by law, nor that it misunderstood the principles of the non-retroactivity of administrative measures and legal certainty.

¹ Decision No. 2023-2252 of 24 October 2023 setting the equalisation amount between press companies

² Act No. 2019-1063 of 18 October 2019 on the modernisation of press distribution

³ [Framework Decision No. 2021-2531 of 25 November 2021](#)

Associated documents

- [Conseil d'Etat decision](#)
- [Arcep Decision No. 2023-2252 of 24 October 2023 setting the equalisation amount between press companies](#)

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 communications, postal networks and press distribution in France.