

# Comparative analysis of music content legislation on radio and digital platforms: what is the future for quotas in the new scenario?

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## Abstract

*The article analyses the communication policies of several countries that regulate radio content and new digital sound platforms. It examines local content quotas in traditional radio and the way new regulations adapt to new technologies, such as smart speakers and car multimedia systems. The methodology includes a documentary and comparative analysis of countries such as France, Canada, the United Kingdom and Australia. It reviews the regulation of platforms such as Spotify and Apple Music, offering recommendations to avoid the excessive power of these new intermediaries. Finally, it provides different options to maintain a balance in the diversity of sound content.*

## Keywords

*Radio, Quotas, Regulation, Streaming, France, Australia, Canada, United Kingdom, Spain.*

## Resum

*L'article analitza les polítiques de comunicació de diversos països que regulen el contingut de la ràdio i les noves plataformes digitals sonores. Estudia les quotes de contingut local a la ràdio tradicional i com les noves regulacions s'adapten a les noves tecnologies, com ara els altaveus intel·ligents i els sistemes multimèdia dels automòbils. La metodologia inclou una anàlisi documental i comparativa de països com França, Canadà, Regne Unit i Austràlia. Revisa la regulació de plataformes com Spotify i Apple Music, i ofereix recomanacions per evitar el poder excessiu per part d'aquests nous intermediaris. Finalment, planteja diferents opcions per mantenir un equilibri en la diversitat de contingut sonor.*

## Paraules clau

*Ràdio, Quotes, Regulació, Streaming, França, Austràlia, Canadà, Regne Unit, Espanya.*

## Introduction

It is not at all strange that studies on the regulation of radio in Spain and Catalonia are less abundant than those dedicated to television given the lower economic, social and advertising importance of the radio sector. The advertising spend on radio in Spain in 2023 reached €461.3 million, which represents 7% of the media spend overall while television reached 29%, about €1.735 billion (InfoAdex, 2024). As a positive feature, its audience level has been maintained for years between 50 and 60%, which means it is a significant medium. The penetration of the radio medium in Spain and Catalonia is close to 54% in 2023, a figure only surpassed by television (81%) and the internet (79%). Two decades ago the percentage was 56%, a

drop of only two percentage points in 20 years (AIMC, 2024; Catalan Audiovisual Council, 2024).

In an analysis of the previous literature, we find that part of the studies focus on the challenge, as yet unmet, of regulating alternative or third-sector radio stations (Meda González, 2015; Lema Blanco, 2020; García, 2021; Pérez-Martínez & Reguero Jiménez, 2021). Studies on licencing policies and the associated issues of concentration and clientelism are also frequent (Fernández Alonso, 2003; Peñafiel et al., 2005; Arboledas, 2009; Arboledas & Bonet, 2013, 2014; Bonet & Guimerà, 2016). In other cases the perspective is purely legal (Chinchilla-Marín, 1999; Cousido, 2022; García Caba, 2023) or a comparative study is made looking at the granting of licences in other countries (Domènech-Costafreda, 2000).

More frequently, we see studies on musical diversity in the radio offering (Gallego, 2016; Bonet et al., 2011), and the role of the public service as a generator of diverse musical offerings (Costa Gálvez, 2017).

## Methodology

This research study<sup>1</sup> makes a comparative study of the communication policies in several countries, firstly looking at the way they are aimed at regulating the content of the radio in the form of quotas (France, Canada and Australia) and, secondly, at how are they addressing the regulation of new digital sound platforms and new devices such as smart speakers or car multimedia systems that are becoming new intermediaries in the way people listen to sound content (France, United Kingdom, Canada and Australia). The methodology of this study uses documentary and comparative analysis and covers a selection of countries which are culturally and politically similar to Catalonia and Spain, which have been chosen because they present significant regulatory developments in this sector. The time interval has been set to cover the latest developments from 2020 to January 2024. There is an analysis of the system of quotas, where applicable, and how the countries approach the regulation of sound platforms such as Spotify, AppleMusic, etc. and the devices and gadgets that act as intermediaries in listening to sound content. Finally, some conclusions are offered, and certain options are proposed that could be used by the regulator to avoid situations of excessive control by these intermediaries or platforms in the current scenario for the sector.

## The regulation of content quotas on the radio

Before the expansion of sound content distribution platforms, one of the main tools used by the regulator to ensure local content was to impose specific quotas on radio stations in favour of music produced locally or in the language of the country (as in the case of France, Catalonia, Australia, Canada or Poland) or local content quotas, as in the case of the United Kingdom. These rules were conceived in a less competitive framework and in a context where radio was the only way to discover new music and very often also the only way to consume it. Since then, the sector has undergone several changes and technological transformations that have had a major impact on production, distribution and consumption practices. The audience has switched to listening to podcasts, radio and music via streaming, calling the sector into question, especially that of music radio. The question is whether the old quota system should also apply to new streaming operators and gadgets like smart speakers or car multimedia systems.

Quotas in radio and television have traditionally been understood as one of the techniques used in communication policies to achieve cultural and/or economic objectives that the

market alone cannot provide in certain small markets or in those linguistically threatened by neighbours with a high production and distribution capacity. At a European level, we find them being applied to television or cinema to ensure the presence of local content, therefore the culture of a country, and to protect its industry.

In the case of radio, they can consist of quotas for a certain type of music or local news; in this analysis only the former type will be discussed. As far as musical quotas are concerned, they can be based on the national origin of the artists, the type or genre of music or the language used. These quotas can be prescribed by the state through law or imposed by the licence conditions. They can also be applied through a self-regulation mechanism or voluntary commitment, or they can be a mixture of both, a co-regulation system.

## France: the prime exponent of quotas

France is the country where the regulation of musical quotas in radio broadcasting is most extensive and complex to protect its musical culture and the French language against the dominance of music in English. The quotas aim is to promote the *chanson française* while bearing in mind that this concept is something broader than simple translation; it is a French way of creating culture by making music; it is a genre in itself that has its roots in classics such as Edith Piaf, George Brassens, Georges Moustaki, Jacques Brel or Johnny Hallyday; it is an important part of France's cultural and popular heritage and needs to be defended.

At first, an attempt was made to promote French music on the radio based on the programming commitments agreed in the granting of the licences between the Conseil Supérieur de l'Audiovisuel (CSA) and the broadcasters, but the degree of non-compliance was high enough for a system of quotas to be launched in the mid-1990s, which in principle were meant to be clearer and provide more legal security (Machill, 1996). Music quotas in France came into force in 1996, were partially reformed in 2016 and underwent several minor changes in 2021 (Franch Law no. 86-1067). They are extremely complex and detailed rules, which in turn hinders their application and control by the independent regulatory authority, currently Arcom, the French authority for the regulation of audiovisual and digital communication.

## Different types of quotas depending on the type of radio

The 1996 quotas require private radio stations to broadcast a minimum of 40% of music in French or a regional language spoken in France, of which at least half must be dedicated to new French artists in a non-night schedule or number of hours of meaningful listening. On weekdays from 6 a.m. to 10:30 p.m., Saturdays from 6:30 a.m. to 10:30 p.m. and Sundays from 7 a.m. to 10:30 p.m. Regarding the public broadcasting service, Radio France, Article 30 of the Decree of 13 November 1987 that regulates its missions and services specifies that the music quota in French will be 50%.

There are two exceptions to the general rule of 40% applied to private radio:

1. For radio stations specialising in promoting young talent, a quota of 35% is established for songs of French expression, of which 25% must be young talent (8.75% of the total).
2. For radios called “de patrimoine” (Nostalgie or ChérieFM): the quota rises to 60%, and of this, 10% must be new productions, with a minimum of one new title per hour. These two obligations must be given monthly and in several significant listening hours.

In July 2016, a reform was carried out where the quotas were made more flexible but at the same time complicated by three provisions that are very detailed, and which are also found in Article 28.2-bis of French Law no. 86-1067:

1. A third specific derogatory regime for radios specialising in “musical discovery” (those that broadcast at least 1,000 different titles each month, half of which are new productions and none of the titles is broadcast more than 100 times). The general share of 40% remains, but that of new talent drops from the general level of 20% to 15%.
2. Secondly, the 2016 reform establishes a penalty or *malus* to exclude the 10 most programmed French language titles if they represent more than 50% of the total French language broadcasts. This measure is explained because, before this provision, a study commissioned by the French Ministry of Culture confirmed that very few songs of French expression, between 2 and 3%, represented 75% of the broadcasts of the quota (Bordes, 2014). In other words, they always played the same songs in French and there was little variety. This *malus* has been highly criticised by the industry because it means that, by not being able to keep playing the French language hits, their audiences fall and because the measure has the unintended effect that although now French language titles are very present in the top 100, they lose their presence in the top 10. As a result, some radio stations have changed their editorial line or increased the number of non-music programmes to avoid this problem.
3. Finally, a potential reduction of 5% of the overall quota is implemented if several cumulative conditions of diversity and originality agreed between ARCOM and those stations with musical programmes as a significant proportion of their programming are met. Thus, a music radio that does not fall under the above exceptions can lower it from 40% to 35% and a radio station specialising in the promotion of young talent can lower it from 35% to 30% if it assumes a series of commitments: that the music being broadcast has 45% of new tracks each month and that the same title not be repeated more than 150 times a month, and that the number of songs and artists and the diversity of record labels be promoted. This second commitment is conveyed through an agreement between ARCOM and the stations that want this 5% reduction.

After a public consultation on music quotas (CSA, 2021) and following demand from the sector, in 2021 this second commitment to lower the quota by 5 percentage points with a rule was laid out (Decision no. 2021-103). It includes five indicators referring to the percentage of new productions, the number of repetitions, the number of different titles, the number of different artists and the diversity of record companies. In addition, it establishes the data collection procedure and the definitions of each concept, which are key for the monitoring of compliance with these provisions and for offering more legal certainty to operators and Arcom.

### **Are the quotas working? According to politicians and the music industry, they are**

In the political sphere, it is considered that music quotas have been effective because it has supported the exposure of creation in music in French, as recognised by deputies of the French National Assembly in a document by the Culture and Education Commission of that legislative body (Provendier & Victory, 2019). The industry also considers their effectiveness evident. According to a study by Observatoire de la Musique (Véronique & Martiréné, 2018), radios broadcast less than 20% of French-language titles in 1994 before quotas were established, while in 2018 this figure reached almost 33%. In terms of their impact, according to the record industry, album sales by French artists in 2018 represented 80% of the Top 200 (SNEP, 2019). In terms of new talent, 20% of the Top 200 in sales were debut albums produced in France. The figures for the year 2022 show that this trend has been maintained, albeit with a slight downward trend: 77% of the top 200 best-selling albums are of French production and new artists occupy 13% (SNEP, 2023).

### **Canada: quotas to protect the industry and language**

The peculiar linguistic situation of Canada (as a bilingual country) and geographical situation (neighbour of the USA) explain the existence of musical quotas on the radio in this country and its high complexity, similar to that of France. Thus, the Radio Regulations (SOR/86-982) of 1986 defined very precisely what amounts of Canadian music have to be broadcast on radio stations. Article 2.2 of the law states that 35% of the music broadcast between 6 a.m. and 6 p.m. on weekdays and 35% of all music broadcast each week on all AM and FM stations must be Canadian. Furthermore, in the case of French-language radio stations, 55% of vocal music broadcast between 6 a.m. and 6 p.m., excluding weekends, and 65% of all the music broadcast each week must be in French. As for the public radio network, CBC-Radio Canada, it must ensure that at least 50% of its music is of Canadian origin.

### Conditions for considering a musical work to be Canadian

Interestingly, unlike the French rules, Canadian legislation does not treat language as the sole criterion for defining local content. Section 2.2.2 of the 1986 Act defines local content referred to as 'Canadian selection' as:

"a musical selection that meets at least two of the following conditions, namely (i) the music or lyrics are primarily performed by a Canadian, (ii) the music is composed entirely by a Canadian, (iii) the lyrics are written entirely by a Canadian, (iv) the musical selection consists of a live performance that is recorded entirely in Canada or performed entirely and broadcast live in Canada, and (v) the musical selection was performed live or recorded after 1 September 1991 and a Canadian who has collaborated with a non-Canadian receives at least fifty per cent credit as a composer and lyricist according to the records of a recognised performing rights management company."

This emphasis on the origin of the song or artists and the language in which the song is performed is a direct consequence of the aims of Canadian legislation on quotas. The purpose of the rules is not only to protect the language, culture and music industry in the French-speaking part of Canada but also to protect it in the English-speaking part of the country. If French were the only language spoken in Canada, it would be sufficient to establish a quota favouring French musical content on the radio and this would automatically lower the English language musical presence. Because Canada is bilingual, the radio regulations had to add additional conditions to define exactly what is meant by the term 'Canadian music' and thus also protect the Canadian industry and culture.

### Exceptions based on the type of licence

However, there are numerous exceptions and modifications to the quotas based on the type of licence the station has (commercial, university, community, ethnic, indigenous, public or third sector) and the type of music broadcast: popular, special interest (jazz, blues, classical), popular oldies. In general, they involve at most a 5% lower in the general quota or in the case of stations that broadcast music made before 1956, the quota can be lowered by between 2 and 10% (CRTC, 2024). The controlling and sanctioning body is the Canadian Radio-television and Telecommunications Commission (CRTC).

### A slight loosening of quotas in 2022

Precisely, the regulator updated the Canadian content rules in 2022 in an attempt to protect the country's artists and at the same time offer more flexibility to the radio industry so it could be competitive in a very dynamic environment with competition from operators of sound content platforms (CRTC, 2022).

Specifically, to give more flexibility to the radio sector, both the criteria for considering a song as Canadian and the content categories have been expanded, thus allowing broadcasters more scope to comply with the quotas. As a counterweight, Canadian

and French vocal music has been more strictly defined so that they could not circumvent using montages of non-Canadian popular songs; also, a new quota was created of at least 5% for songs by emerging Canadian artists and a consultation process was launched on how to use the fund that broadcasters are required to pay for the development of Canadian content. In addition, work is underway on a digital monitoring and open database system that will reduce the workload of broadcasters.

### Australia

As a country where English is the main language, the quota system applied to Australian radio is also aimed at protecting Australian artists, industry and music culture rather than the language, in the face of pressure from other countries such as the United Kingdom and the United States with a strong tradition and music industry. It should come as no surprise, then, that the quota system in Australia has a long history, going back even further than the French regulations. The first quotas were imposed in 1942 when 2.5% of music broadcasts were required to be Australian to prevent radio broadcasting from being dominated by American and British artists. This was gradually increased to 5% in 1956, 10% in 1973 and 20% in 1976 (Homan, 2013, p. 389).

The differentiating feature in Australia compared to the previous countries analysed is the self-regulation of the industry since 1992, when the "Commercial Radio Code of Practice" was agreed upon. This Code has been updated over the years and binds every commercial station. The latest version is from 2018 (Commercial Radio Australia, 2018). The quotas are established according to musical genre as can be seen in Table 1.

For example, stations playing commercial rock and pop had to ensure that 25% of the material was by Australian artists. In the October 1999 version of the "Code" it was agreed that at least 25% of Australian music played by mainstream rock and contemporary hits radio stations had to be productions from the preceding year. The aim was to ensure that new songs were included within the playlist of the most commercial stations of these genres. The period in which the quotas are applied is between 6 a.m. and 12 midnight. In public radio, the quota rises to a minimum of 50%. Compliance with these quotas is the task of the regulatory body, the Australian Communications and Media Authority (ACMA).

The Australian Parliament produced a report in 2019 on the Australian music industry, in which it asked the regulatory authority to work to simplify and amend the "Code" so that 25% applies to all broadcasters and that a quarter of that share was from new Australian music (The Parliament of the Commonwealth of Australia, 2019). The flexibility would come because, in any case, it would be up to each station to demonstrate that there is not enough Australian music and then ask the regulator for a lower quota. However, these requests by MPs have had no further recourse in the legislative field.

**Table 1. Australian music quotas by musical genre**

Radio format	Quota
Mainstream Rock Album Oriented Rock Contemporary Hits Top 40 Alternative	Minimum 25%
Hot/Mainstream Adult Contemporary Country Classic Rock	Minimum 20%
Soft Adult Contemporary Hits & Memories Gold - encompassing Classic Hits Hip Hop	Minimum 15%
Oldies Easy Listening Easy Gold Country Gold	Minimum 10%
Nostalgia jazz NAC (smooth jazz)	Minimum 5%

Source: Commercial Radio Code of Practice, 2018.

## The regulation of new digital sound platforms in Western countries

The quota system has been one of the main tools of the regulator to ensure local content, however, these rules were conceived in a less competitive framework and in a context where radio was the main way to discover and consume music. Since the massive expansion of smartphones with the appearance of the iPhone (2007), the radio sector, like so many others, has undergone a series of technological changes and transformations that have impacted production, distribution and consumption practices and led to the emergence of new actors, formats and products while also calling into question the quota system or at least its limited application to traditional broadcasting.

Although, as usual, regulation always lags behind technological and market developments, there is a fundamental movement in culturally similar countries to try to introduce content obligations on digital distribution sound platforms, especially those such as Spotify, Apple Music or Deezer where the user does not create or distribute content, unlike YouTube. There are also moves to regulate the new technological gadgets that act as intermediaries in listening to sound content, such as smart speakers (UK) or car communication and entertainment system managers (US).

This move to regulate the new actors is explained by three main factors. The first is because the concerns of political actors about preserving culture or language in a world technologically dominated by global companies are still present despite globalisation. In this regard, the sector also argues:

that if quotas are not applied to streaming music platforms, this could paradoxically weaken the regulated actors on whom the policy of both linguistic and cultural diversity depends (Joux, 2016, 2020). Secondly, the radio industry is asking for it by observing that, above all, Spotify competes not only for the audience but also for advertising. If you want a local sound content distribution industry that provides jobs and responds to local characteristics, it is essential to protect it or at least not harm it. Finally, the regulation is also driven by users who request that conventional radio stations be included in the catalogue of digital sound platforms' offerings and in a preferred place to access them from the mobile phone. Spotify users can request improvements to the application through a specific website. One of the requests with the most votes is the direct inclusion of FM and AM radio stations in the Spotify offering. The streaming company responds that it has no plans to incorporate this feature (Figure 1).

**Figure 1. Petition and response on the inclusion of FM and AM radio on the Spotify app**

Source: <https://scur.cat/FKD08F>

## France: there is an ongoing debate, but no regulation yet

Concerning the regulation of music streaming in France, the complaints of radio operators against these competitors are frequent due to the discrimination caused by not imposing a similar quota system on them. The document by the French National Assembly mentioned above (Provendier & Victory, 2019) already considered the need to impose a system of quotas on these sound content digital services, yet it acknowledged that the quotas are unfeasible in streaming, because, being an on-demand model, consumers would remove them from their playlists or look for others. However, the MPs expressed that it was legitimate to pursue the goal of greater exposure of the *Chanson Française* on these new platforms. In this regard,



it suggested that in the future it could be regulated that the editorial proposals prepared by the platforms themselves - such as featured playlists or recommendations - include French-language music, a method that could achieve effects similar to the quotas imposed on radio operators. According to data from Aguiar & Waldfogel (2018), if a song was added to the "Today's Top Hits" list, with 18.5 million followers in 2018, it automatically added 20 million to its number of plays, entailing earnings of between \$116,000 and \$163,000. They claimed that including a song in the different national new music lists on Fridays, "Novetats Divendres Catalunya", for example, substantially increases the probability of success of the song, even in the case of new artists.

### United Kingdom: keeping the radio on the new gadgets

Perhaps the most significant and advanced case is the British one. First, it is worth explaining that there are no music quotas in the UK, but there are content quotas. Each radio station, when obtaining its licence, undertakes to broadcast a very specific and defined type of musical or generalist programming, and to a certain quota of locally produced content. In its report *Up Next - The Government's vision for the broadcasting sector*, published in 2022, the UK government proposed updating the 1996 Audiovisual Act, reformulating or even removing these requirements (Department for Digital, Culture, Media & Sport, 2022). Currently, a change in the programming or the type of music a station broadcasts involves justifying it to the regulator Ofcom, which can even set up a public consultation before accepting the change. Relaxing these processes would allow the government to be more demanding with the release of more local information. These 2022 proposals have finally been included in the proposed law that the Conservative government presented in March 2023 and which has been going through Parliament since 8 November (Media Bill, 2023). It is estimated that it could enter into force in early summer 2024.<sup>2</sup>

Secondly, and perhaps the most interesting element of the British case, are the measures of this new law to regulate and favour the presence of radio services through the voice assistant platforms. According to official audience figures around a third of UK households have access to a smart speaker (Department for Digital, Culture, Media & Sport, 2023). But the most remarkable thing is that radio represents 70% of the consumption of audio services listened to on these devices (RAJAR, 2023a). This high following for traditional radio on these new devices means they contribute 14% of total radio listening in the UK (RAJAR, 2023b).

Faced with this situation, the Conservative government considers that there is a potential risk of an imbalance of forces in favour of the platforms and against the radio stations. To ensure that access to the radio through these gadgets is protected for years to come, it has been decided to regulate it. Currently, the operators of Alexa (Amazon), HomePod

(Apple) and Google Nest are interested in radio services being incorporated into their audio content offering because they are attractive services for users who make heavy use of them, but the moment when that might change and speakers could offer more services and traditional radio is not as significant as a killer app, speaker operators could start putting conditions on it like charging to be included in their offering, participating in the advertising revenue of the broadcasters or including their own advertising, thus violating the integrity of the radio broadcasts.

Therefore, measures have been proposed in the new law that aim to ensure a) that radio services are available on these gadgets and that they can be easily found by listeners; b) that they are received in their entirety, that is to say without added content such as advertising incorporated by the platforms and c) that broadcasters can specify the system or route through which they are delivered to the public (Media Bill, Article 362BI).

Specifically, the following measures are proposed:

1. Must facilitate: Ensuring the presence on these gadgets of those radio stations that ask Ofcom to be made available there.
2. No cost access: there should be no associated costs for this presence.
3. Findability: Ensuring listeners get the station they want when they make a verbal request to the smart speaker.
4. Integrity of service: Preventing platforms from inserting or superimposing their own content on broadcasters' content.
5. Default route: Ensuring the listeners can access the station they request through the station's preferred aggregator (e.g.: BBC Sounds), unless they want another way, or the requested way is very difficult to implement.

Ofcom would be in charge of monitoring compliance with these principles and drawing up specific and detailed rules and guidelines. These five principles are very favourable to the radio industry and are a model that could be applied to the entertainment systems in vehicles, to apps like Spotify or Apple Music or any IP transmission system and smart TVs.

### Canada: streaming must offer Canadian content

Like many other countries, Canada has also embarked on a major regulatory reform of the audiovisual sphere to adapt it to the new dynamics and actors. The first step has been to include digital platforms in audiovisual regulation by transforming the old Broadcasting Act (1991) into the recently approved Online Streaming Act (2023), where, according to the government, the needs and interests of Canadians are prioritised and greater inclusion of diversity is sought in television and radio programming. The novelty, as its name indicates, is that it includes companies that perform "broadcasting" from the internet and, therefore, are now regulated by the Canadian Radio-television and Telecommunications Commission (CRTC). The regulator can now impose conditions on them to develop their

activities in the country, such as using local talent, obligations to invest in Canadian content and/or improve “discoverability”, i.e. the ability to find Canadian content on these platforms.

The CRTC admits that it cannot require streaming service operators to use specific algorithms to promote Canadian content. But argues that there are other, simpler systems such as including promotional campaigns or highlighting this content on their home pages. In any case, a discussion is being planned with the actors involved to determine what are the best tools to support Canadian music through a specific public consultation in the spring of 2025 that will deal with “all aspects of radio and streaming services of Canada... [and]... how to support the industry and Canadian music, how to define audio content and what legal obligations should be implemented” (CRTC, 2023).

### Australia: regulation proposals

In 2019, the Australian Parliament's Communications and Arts Committee produced a report on the Australian music industry which, among other recommendations, demands that music streaming services work with the country's music industry to increase Australian content in playlists and ensure that citizens have access to local content (The Parliament of the Commonwealth of Australia, 2019). It proposes the following tools to achieve this goal:

- Employing locals dedicated to curating or editing Australian content.
- Ensuring that Australian content is appropriately represented on locally curated playlists.
- Highlighting Australian artists in promotional material internally, to users, and externally, via marketing channels.

Apart from this report, the Australian Government is working to adapt content policies to the new era of streaming. Tony Burke, the Federal Minister for the Arts, suggested changes to the algorithms of streaming services such as Spotify and Apple Music to ensure Australian artists and songs are more prominent, given that according to the same government data 67% of music consumed in the country during 2021 was through streaming (Quinn & Crowe, 2023). This initiative is part of the government's national cultural policy, called “Revive”, which, among other actions, seeks to help the Australian music industry through strategic initiatives, industry partnerships, research, skills development and promotion of exports (Office for the Arts, 2024). Music industry representatives have gone further and called for a 25% quota of Australian music to be imposed on streaming services (AGSC/APRA/AMCOS, 2022).

### Other regulatory options to preserve radio

Beyond the initiatives of each country, legal formulas have

existed for years that can be useful for preserving the local radio sector in the face of digital sound platforms and their competition for the audience and the advertising market.

First, one option is the legal tool of the Digital Markets Act (DMA), which allows restrictions on the activities of technology companies considered crucial in the proportion of digital services. These companies called “gatekeepers”, cannot prioritise their services - including audio - in their platforms or impose unfair service conditions on companies or end users. In this regard, a rule adapted to the world of sound would be positive because it would allow an open and non-discriminatory environment for radio stations that want to use these digital platforms and gadgets.

A second concept that could be recovered is that of “must carry”, which required and still requires distribution platforms (such as cable or satellite operators) to include content from certain local or national broadcasters in their audiovisual offerings. This concept is similar to the “must facilitate” concept used by the United Kingdom in its Media Bill or the “must offer” concept in the US. The main difference is that the concept of “must carry” is mandatory and not conditional on the request of the operator, while the “must facilitate” or “must offer” needs to be requested by the broadcaster to be effective.

An example of “must carry” in Spanish legislation can be found in the Telecommunications Law of 2003, which has been replicated in the Telecommunications Law of 2022, currently in force, in its additional 7th provision:

*“By order of the person in charge of the Ministry of Economic Affairs and Digital Transformation, reasonable requirements for the transmission of certain television and radio audiovisual communication service channels may be imposed, as well as requirements for the transmission of complementary services to enable adequate access for users with disabilities, to operators that operate electronic communication networks used for the distribution of audiovisual communication services to the public, if a significant number of end users of said networks use them as the main means of receiving audiovisual communication service programmes, when is necessary to achieve objectives of general interest that are clearly defined and in a proportionate, transparent and periodically reviewable manner”.*

A third legal formula that could be used is to apply to the music industry the obligation to incorporate and highlight local content imposed on large audiovisual streaming companies. The EU Audiovisual Media Services Directive (2018) specifies in Article 13 that on-demand audiovisual service providers must have a minimum of 30% of their offering made up of European works in their catalogues and they must ensure its preeminence. Therefore, in Europe, it is allowed to restrict the freedom of enterprise by imposing editorial decisions to achieve a cultural and industrial goal. The preeminence, as described in

Recital No. 35, can be ensured through a specific section for European works, the possibility to search for European works in the search engine of the service, or through the promotion of the platform itself. Unfortunately, the Directive only covers television and on-demand broadcasting services and does not include radio services, but this principle is no longer alien to EU law and could be applied to the radio industry if there is sufficient political will to do so.

## Conclusions

As in so many other economic sectors, radio content regulation has been upended by the emergence of digital distribution platforms. In an older world of scarcity, the private radio sector accepted the establishment of quotas for local content, especially music, in exchange for protection against excessive competition. From the analysis presented so far, it can be seen that quotas are common in culturally similar countries and are applied flexibly according to the type of broadcaster, although over the years they have become more complex.

However, the emergence of digital sound platforms has introduced new and powerful actors shaking up this *quid pro quo*. Faced with this new scenario, the regulators have to ask themselves whether the quotas are suffocating local music stations. It is necessary to define the objectives when regulating and how they are combined: protect the local language, culture or industry. Because let us recall, that radio is local: investments, workers, owners, advertising, etc. and it is an industry where, for example, Catalonia has all the necessary competencies. In addition, in the case of Catalonia, it is the communication medium with the most consumption in its own language with 72% and, therefore, it would be logical that special care should be taken (Departament de Cultura, 2024).

Most of the countries analysed are studying the introduction of measures so as not to lose this local content in the new sound operators, but the United Kingdom has gone one step further by enabling the introduction of radio stations at no cost to smart speakers; this system avoids losing what has been gained with the content quotas imposed on private radio stations. In addition, local content curation and promotion systems can also be imposed on digital sound platforms, as is done in the audiovisual sphere. The legal tools are there, all that is needed is the political will. Falling into the trap of only making policies to promote or finance local content is a mistake. It must be very clear that they are only successful if a system is built that allows them to be incorporated into the distribution networks most commonly used by users. The case of policies supporting dubbing and subtitles for cinema in Catalan is a prime example: mandatory or voluntary inclusion within the OTT offerings is key to their effectiveness and the achievement of cultural and linguistic objectives.

## Notes

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