
The Digitalization of Cultural Policies in France

With the spread of the “technological revolution” in society, digital technology is an increasingly important part of public intervention. Economic, education, health and security policies have gradually integrated the digital dimension of social issues, while public officials have sought to build new “instruments” (Hood 2006) to act in the “information society”. However, the emergence of digital policies should not be considered univocally, as a simple adaptation of governments to the new technological environment: State intervention in turn contributes to building categories of understanding to think about the social world (Bourdieu 2012), in particular the “digital” category, as a set of causes to defend, as a sector of activity to support and regulate, or as a particular mode of action.

The emergence of new categories of intervention refers to a now classic issue in public policy analysis (Burstein 1991; Dubois 1999; Tissot 2007). The many studies that are part of it show how categories are institutionalized around new government structures (ministries, secretaries of state), networks of actors and principles of intervention. However, the transversal dimension of the digital revolution contributes to blurring the boundaries of these categories, which are antagonistically seized by the various government agents: it thus creates a tension between the omnipresence of the “digital” category and the dilution of its unity in multiple public policies.

This text focuses on the construction and competitive appropriation of digital technology in the French government space based on the case of the Ministry of Culture. The intervention of the cultural administration on the Internet is most often summarized as the protection of online intellectual property and its corollary, the

Chapter written by Anne BELLON.

fight against the illegal exchange and downloading of creation. In doing so, France's Ministry of Culture has been one of the first government institutions involved in the construction of Internet regulations since the mid-1990s, which aim to regulate online practices and define new obligations for digital actors. Digital cultural policy would thus extend the traditional objectives of supporting the creative industry, to the detriment of taking better account of the practices and logics of cultural exchange on the Internet. It is in the name of the particularities of the digital space that some activists, experts and politicians have been advocating – since the mid-1990s – for a reform of digital cultural action (Lessig 2004; Dulong du Rosnay 2016).

Since 2008, conflicts between two visions of digital challenges for culture in France were crystalized around the so-called “Hadopi” law, which was named after a new agency that was created and eventually revised: *Haute autorité pour la diffusion des œuvres et la protection des droits sur Internet* (Supreme authority for the distribution and protection of intellectual property on the Internet). Offering a historical perspective on these conflicts and empirical data based on a four-month observation at the cabinet of the French Ministry of Culture, we propose to study the way in which sectoral actors oppose each other around the definition of digital issues and the public policies that must respond to them. First, we will briefly review the history of digital technology at the Ministry of Culture, then we will present the various coalitions in struggle, and finally we propose reasons for the construction of a particular vision of digital technology in the French cultural administration.

14.1. Digital technology at the Ministry of Culture: a perspective

Far from the image of an “enemy” of the Internet that is sometimes attached to it, the Ministry of Culture is in fact a pioneering administration in the spread of the Internet in France in the mid-1990s, at a time when the bureaucracy was largely resistant to this new network, which was perceived as a competitor to the Minitel system (Schafer and Thierry 2012). The mobilization of agents convinced of the potential of the Internet, particularly within the Research Department and the IT Services Department, promoted the early connection of workstations, the introduction of electronic mail and the implementation of one of the first French government websites, culture.fr, in 1994. The ministry's digital action was then part of a digitalization policy launched in the 1980s, with the aim of setting up and making vast museum databases accessible from computer and telematic networks.

With the development of the Web, departmental services are developing interactive sites linked to heritage collections, with the aim of renewing ways of accessing knowledge and art. Experiments with “online museums” are being carried out in partnership with the main public cultural institutions. This action is

implemented by real Internet “activists” within the administration. Often close to associations promoting the Internet and defending rights, they insist on the revolutionary dimension of technological transformations and, at the same time, wish to decompartmentalize administrative policy or even rethink the modalities of the State’s cultural action.

In contrast to these experiments, the issue of copyright emerges, in parallel, as a particularly salient aspect of digital action in the ministry. This is due, in particular, to the international treaties – the World Intellectual Property Organization (WIPO) treaty in 1996 (Sell 2003) – and the European obligations – the Copyright Harmonization Directive in 2001 – which commit successive governments to reforming intellectual property protection on the Internet. In 2000, a *Conseil supérieur de la propriété littéraire et artistique* (Superior Council of Artistic and Literary Property – CSPLA) was created within the ministry, bringing together experts, professionals and consumer associations to discuss these issues. The institution produces many reports and runs consultations to think about the digital transformation of copyright policies.

Between 2003 and 2006, a first law was prepared and adopted after lengthy debates. The law *Loi sur le droit d’auteur et les droits voisins dans la société de l’information* (law on authors’ rights and related rights in the information society – DADVSI), an act concerning copyright and neighboring rights, authorizes the use of technical locks by manufacturers and, above all, penalizes their circumvention (Derieux and Granchet 2010). In 2008, a new law was proposed by the Ministry of Culture, during Nicolas Sarkozy’s five-year term, to strengthen the fight against intellectual property crime. The “Hadopi law” establishes a graded response to acts of illegal downloading, which can go as far as cutting off Internet access. These successive policies, which strengthen the control of rights holders and cultural industries over the modes of distribution and access to creative works, are, however, strongly contested.

On the one hand, many technical experts denounce inefficient and costly systems that are not adapted to the reality of practices and technological constraints. On the other hand, Internet rights advocates argue that these laws pose serious obstacles to the exercise of fundamental freedoms, including the freedom of communication. The Hadopi law is thus fought in the streets as well as in technical and political arenas. Its mechanisms are also partially censored by the Constitutional Council in order to better guarantee respect for online freedoms. Copyright policy thus exacerbates the tensions between the militant Internet and representatives of cultural industries, tensions that the ministry echoes around the challenges of reforming its action in the digital age.

14.2. Opposing coalitions

As we have just seen, the implementation of digital action in the Ministry of Culture has produced two increasingly divergent policies, supported by coalitions of opposing actors. The digitalization and dissemination of cultural heritage on the Internet is accompanied by a restriction on the dissemination of creative works online, in the name of copyright protection. The concept of *causal coalition* was developed by politician Paul Sabatier (1988) to study the mechanisms of political change. It highlights the importance of the beliefs and interests shared by a range of sectoral actors mobilized to defend new public policies. According to him, the transformation of public intervention is explained less by exogenous factors than by the dynamics of internal struggles between opposing “coalitions” and the structure of resources and supports they manage to mobilize at a given time. Far from forming a homogeneous group, cultural professionals have been divided several times when the definition of a new cultural policy was at stake (Surel 1997), particularly in the face of successive technological changes (fax, digitalization, video recorder, etc.).

It is proposed here to study the formation and (re)structuring of these coalitions, based on an observation of the negotiations conducted in the Ministry of Culture’s cabinet, around a reform of digital cultural policy following the debates provoked by the fight against illegal downloading. Entitled “Act II of the cultural exception”, the reform program launched at the beginning of François Hollande’s five-year term (Socialist Party) in 2012 was supposed to respond to the strong political tensions that accompanied the implementation of the “Hadopi” mechanism. First, it involved the various professional groups and activists in the drafting of a report presented in autumn 2013 to the Minister of Culture, Aurélie Filippetti. Second, the report should have served as a framework for the drafting of a new digital law, a project led by the ministerial cabinet during 2014. Negotiations made it possible to see the emergence of two coalitions of actors: they were distinguished by their antagonistic appropriation of digital issues and the way they linked them to the objectives traditionally assigned to the State’s cultural policy.

First, the 2012 political changeover brought former opponents of the Hadopi law, sometimes from the ranks of the Socialist Party or digital rights associations, into the cultural administration. The latter claimed positive recognition of exchange and remix practices on the Internet, or even the establishment of a legal license by the State for the unimpeded distribution of digital works. They also proposed that the protection of the public domain and the “creative commons” be enshrined in law in order to combat the increasing commodification of culture. Their conception of digital cultural issues was based on the convergence, in their view, of two objectives: on the one hand, the free flow of information has been promoted by the militant Internet since the 1980s (Coleman 2012, 2013); on the other hand, cultural democratization, the issue around which public cultural action has been built since the 1930s.

This coalition was formed around a handful of agents who were often isolated within the large cultural administration. They could be found, for example, in the ministry's "digital uses" department, while in the ministerial cabinet, this vision of the challenges of the Internet was relayed, albeit in an ephemeral manner, by the digital advisor Juliette Mant between April and August 2014 and, to a lesser extent, by the advisor in charge of arts education.

These public actors relied on "free culture" initiatives (Creative Commons France, Wikimedia) or digital rights associations (La Quadrature du Net) with which they regularly exchanged ideas, within the frameworks of informal meetings, as well as symposia or festive events organized by the ministry ("Hackathon of cultural data", "Digital autumn" project, etc.). They also developed collaborations with the Secretary of State for Digital Technology, or with the advisers responsible for digital technology in the Office of the Presidency and the Prime Minister, and finally, to a lesser extent, with the digital services of the Ministry of Education and Research. Together, they defended a transversal conception of digital policy at the service of Internet causes and ethics. The cross-sectorial coalition of Internet enthusiasts also aimed to compensate, through the creation of a support network within the government space, for the weakness of their position in various sectoral administrations.

Indeed, the members of this coalition were often newcomers to the ministry and therefore had few bureaucratic resources in a highly standardized space. Often younger than their colleagues (they are all under 40 years old), they were mostly former lawyers or activists, although some, but more rarely, were computer experts. As a result, they had little control over the codes of a bureaucratic policy that they were trying to subvert in the name of "digital revolution".

This was the opposite of the agents constituting the other coalition, supporters of a digital cultural policy at the service of the domestic creative industry. These included the sector advisors responsible for audiovisual, film, music or publishing in the department's office and the directors of the main administrative divisions. These senior civil servants often spent part or all of their careers in the cultural field, mostly in the administration or at the head of institutions supporting creativity. This "third cultural sector", at the crossroads of the public and private spheres, was composed of expert bodies (*Conseil supérieur de la propriété littéraire et artistique*), regulatory agencies (Hadopi or *Conseil supérieur de l'audiovisuel* (*Superior Council of the Audiovisual*)), as well as organizations for the redistribution of public subsidies (*Centre national de la cinématographie* or collecting societies). The trajectory of many of the ministerial advisers across these different institutions revealed the strong porosity of the boundaries between administration, public agencies and private companies in the cultural sector.

Senior officials also had many contacts with professional organizations. The strength of these cultural networks lied as much in the durability of these structures for the representation of artistic interests as in their ability to attract former members of the administration and mobilize the symbolic weight of artists' collectives in the struggle to define cultural policies. The circulation of sectoral elites thus encouraged the development of a common vision of digital challenges: among them, with the convergence of audiovisual media and telecommunications, the weakening of creative industries' business models, and the emergence of over-the-top players, the Internet revolution was above all perceived as a phenomenon destabilizing the existing equilibrium in a highly regulated sector (Chantepeie and Le Diberder 2010). The main goal of this coalition was therefore to protect industrial players, particularly those facing competition from the GAFAs (Google, Amazon, Facebook, Apple), in the name of the "cultural exception". To do so, they advocated for an adaptation of regulations to the reconfiguration of the creative and cultural markets. According to them, it was also important to strengthen the means of the fight against piracy by consolidating the measures put in place with the Hadopi law – a graduated response, the fight against pirate sites and the increased legal accountability of technical intermediaries in the removal of illegal content. The digitalization of cultural policy then requires an increased use of regulatory instruments, whether in terms of taxation of new digital players or the introduction of new obligations and incentives (e.g. a charter with advertisers to combat streaming sites).

14.3. An industry policy instead of a user policy

Eventually, the asymmetric distribution of resources between the two coalitions is leading to the progressive marginalization of the promoters of Internet causes within the cultural administration. It can be observed, for example, in political arbitrations, most often in favor of the second coalition: the recognition of the public domain, which was first discussed in the drafting of the reform project in 2014, is thus gradually being abandoned. Similarly, the abolition of the Hadopi law, announced by the Minister of Culture in 2012, gives way to an increase in its financial resources from 2015 onwards. The ability of industrial actors to coordinate their efforts and solicit support from senior administrators and sector-specific political advisors is detrimental to the supporters of an Internet "users' policy", who have weak and scattered governmental relays. It leads both to the economic framing of the "digital" category in the cultural field (Schlesinger 2014), in the service of a reform of the regulation of creative markets, and the failure of a recognition of digital technology as an issue of democratization and renewal of cultural practices.

14.4. Conclusion

Far from destabilizing sustainably institutionalized public policy networks, the “digital revolution” therefore seems to have favored an instrumentalization of the “digital” category by sectoral elites, with largely unchanged policy objectives (Negrier and Teillet 2014): the defense of domestic creative industries, the affirmation of the “cultural exception” in international negotiations or the regulation of cultural markets by the State. However, this contribution makes it possible to qualify the vision of a homogeneous cultural administration, whose agents would unambiguously defend the reinforcement of the fight against piracy and the protection of sectoral balances.

In France, the development of digital policy at the Ministry of Culture is in fact durably marked by competing appropriations of the “technological revolution” under way, its meaning and the challenges it covers for the dissemination of culture and creativity in the information society. While policies for the digitalization and appropriation of heritage remain in the minority, their inclusion on the ministry’s agenda can also benefit from the opening of new windows of political opportunity, the growing capitalization of expert resources within the coalition of “Internet enthusiasts”, the restructuring of exchanges and the actors that constitute it.

However, the political alternation of 2017 seems to have accentuated a favorable balance of power for professional representatives of the creative industries: the positions taken by Minister Françoise Nyssen – in office in 2017 and 2018 – for strengthening Hadopi’s capacity for action in the fight against illegal downloading and streaming, and Franck Riester’s appointment as Minister of Culture – formerly rapporteur of the Hadopi law – in 2018 mark a sustainable dilution of digital technology in the defense of the sectoral actors. Cultural policy has therefore become “digital” by subsuming the digital environment to sectoral issues, more than it has allowed the emergence of a real digital policy for culture, encouraging the introduction of new logics specific to the Internet world into the ministry’s action.

14.5. References

- Bourdieu, P. (2012). *Sur l’État : Cours au Collège de France (1989–1992)*. Le Seuil, Paris.
- Broca, S. (2013). *Utopie du logiciel libre. Du bricolage informatique à la réinvention sociale*. Le Passager clandestin, Paris.
- Burstein, P. (1991). Policy domains: Organization, culture, and policy outcomes. *Annual Review of Sociology*, 17(1), 327–350.

- Chantepie, P. and Le Diberder, A. (2010). *Révolution numérique et industries culturelles*. La Découverte, Paris.
- Coleman, G. (2012). *Coding Freedom: The Ethics and Aesthetics of Hacking*. Princeton University Press, Princeton.
- Derieux, E. and Granchet, A. (2010). *Lutte contre le téléchargement illégal : Lois Dadvsi et Hadopi*. Wolters Kluwer France, Paris.
- Dubois, V. (1999). *La politique culturelle, Genèse d'une catégorie d'intervention publique*. Belin, Paris.
- Dulong du Rosnay, M. (2016). *Les golems du numérique : Droit d'auteur et Lex Electronica*. Presses des Mines, Paris.
- Hood, C. (2006). The tools of government in the information age. In *Oxford Handbook of Public Policy*, Moran, M., Ran, M., and Goodin, R.E. (eds). Oxford University Press, Oxford, 469–481.
- Lessig, L. (2004). *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. Penguin Press, New York.
- Négrier, E. and Teillet, P. (2014). Le tournant instrumental des politiques culturelles. *Pôle Sud*, 41(2), 83–100.
- Sabatier, P. (1988). An advocacy coalition framework of policy change and the role of policy-oriented learning therein. *Policy Sciences*, 21(2–3), 129–168.
- Schafer, V. and Thierry, B. (2012). *Le Minitel : L'enfance numérique de la France*. CIGREF, Paris.
- Schlesinger, P. (2016). The creative economy: Invention of a global orthodoxy. *Les Enjeux de l'information et de la communication*, 17(2), 187–205.
- Sell, S. (2003). *Private Power, Public Law: The Globalization of International Property Rights*. Cambridge University Press, Cambridge.
- Surel, Y. (1997). *L'État et le livre : Les politiques publiques du livre en France (1957–1993)*. L'Harmattan, Paris.
- Tissot, S. (2007). *L'État et les quartiers. Genèse d'une catégorie de l'action publique*. Le Seuil, Paris.