

# New Law on AFP's Statutes, New Contract with French State: Why So Much Secrecy?



On September 11 France's incoming Culture Minister, Fleur Pellerin, announced a new law "very soon" on finance for the print media and for AFP. According to the agency's wire story, she gave the following details [our translation, our emphasis]:

- The new law would allow "*at last for a reform of AFP's statutes, while fully respecting its autonomy*".
- The legislation was "*necessary to ensure compliance with European competition law*".
- "*All efforts are being made to ensure that the **technical subsidiary** proposed by Michel Françaix<sup>1</sup> as a vehicle for AFP's future investments can be set up, with support from the Caisse des Dépôts, at the start of 2015.*"
- "*In 2015 and beyond, the state will do more than maintain the support it provides for the **general interest missions** of AFP, which is currently pushing ahead with an indispensable modernisation programme.*"
- "*These mutual commitments will be laid out in the next **Aims and Means Contract**<sup>2</sup> between AFP and the state, which will soon be signed*".

## So—Has AFP Been Saved?

Pellerin's statement refers to a set of issues on which neither AFP staff nor the general public have been adequately informed. Here's how SUD sees it:

### Gradual Strangulation of AFP's General Interest Mission

Having been able to look at certain documents pertaining to the conflict between the European Commission and France over state funding for AFP, we have stated on several occasions that the invocation of the EU's sacrosanct laws on "*state aid*" and "*free and undistorted competition*" are in fact aimed not at saving AFP's authentic public interest mission, but in fact at **gradually strangling it**. For AFP, a commercial company with no capital that is structurally independent of both political and financial interests, is today seen as a legal anomaly that doesn't fit into the EU's legal framework.

Are we wrong? If we are, there's only one way to prove it, by **publishing the correspondence between the European Commission and the French government** on which the proposed Pellerin law will be based!

For example, the letter of 40-plus pages dated March 21, 2014, in which the then competition commissioner **Joaquin Almunia** laid down his demands to the French government and called on them to take the required measures "*within the space of a year*" should be made public.<sup>3</sup>

We would in particular like AFP management to tell us whether they share Almunia's view that **AFP's activities in German are not part of the "general interest mission"**. We would also like management's views on Almunia's exhortation to **encourage activities seen as being outside the "general interest missions" by spinning them off into subsidiaries**.

To quote from Almunia's letter [our translation, our emphasis]:

*"Activities which are not part of the [general interest] missions are already carried out in subsidiaries, such as AFP Deutschland GmbH (AFP GmbH), and are not performed by AFP itself. The French authorities also promise to implement a normalising act which would make tangible AFP's obligation to spin off ["filialiser"] and develop activities other than those laid out in articles 1 and 2 of the law of January 10, 1957, in the framework of companies with distinct judicial identities.<sup>4</sup> This is particularly the case for AFP activities that can be compared to those of national agencies in states other than France."*

1. In October 2013 Françaix, a Socialist MP, was asked by President François Hollande to produce a report on future financial arrangements for AFP, following changes in the way the company receives support from the French state. Cf. <http://www.sud-afp.org/spip.php?article101>. The Françaix report (French only) is at <http://www.gouvernement.fr/premier-ministre/remise-du-rapport-de-michel-francaix-sur-l-avenir-de-l-agence-france-presse>. The Caisse des Dépôts is a state-owned bank and holding company that would be the key shareholder in the proposed subsidiary.

2. The Contrat d'objectifs et de moyens (COM) is an agreement between AFP and the French government laying out the responsibilities of each. Translated extracts of the most recent COM, which expired at the end of last year, can be found at <http://www.sos-afp.org/en/com>. See also: <http://www.sud-afp.org/spip.php?article55> (French only)

3. We thank AFP management for allowing us to look at the document in question.

4. The law in question defines AFP's statutes; articles 1 and 2 in particular aim to ensure its independence. For a full English translation (by SUD), see <http://www.sos-afp.org/en/statutes>.

The above extract—we could have quoted others—suggests that what has been laid down for Germany could also be invoked for AFP's activities in other countries or regions.

**If there is to be a serene public debate about the future law, the government should be completely transparent about its dealings with Brussels, and AFP management should stop trying to dodge key questions.**

### **The Aim of the Françaix Plan in Financing Investment**

In 2012, the French parliament adopted a minor change to AFP's 1957 statutes, with the approval and support of the agency's joint HQ-status trade unions. The aim being to write the "*general interest missions*", as defined by the EU, into Article 13 of the law.<sup>5</sup>

It is now clear that the decision helped to convince the European Commission that AFP indeed carries out general interest missions (known as "*services of general economic interest*" in EU-speak). However according to Brussels, the aid provided by the government for such missions can only be for operating expenses, and not for investments. Whence the proposal by French MP Michel Françaix, endorsed by the government, to set up an "*EU-compatible*" mechanism to finance's AFP's investments via a **technical subsidiary**.

The broad lines of that proposal have already been made public, and several AFP trade unions, including *SUD*, have come out against it.

Whatever position one takes, it is clear that it will not be possible to have a reasoned debate about the proposed subsidiary if we don't know anything about the underlying strategy.

### **The Next Aims and Means Contract**

The purpose of a hospital is not to generate profits or cash flow, but to heal sick people. It was similar reasoning that lay behind the creation of AFP's modern statutes, in 1957. The agency is supposed to provide complete and objective information to users, and its annual budget must be balanced.

Since the 1980's successive French governments and AFP managements have chipped away at the model by launching projects aimed at "*diversifying products*" and above all at boosting sales. The aim being in particular to oblige AFP to generate its own resources for investment, whereas in the past the latter were provided via significant state aid.

If AFP has indeed succeeded in increasing its sales internationally, it is clear that the ambitious growth forecasts that underpinned the two COM contracts signed since 2003 have completely failed to come true.

**So what about the next COM?** According to CEO Emmanuel Hoog, the new contract is to be based on predictions of **annual sales growth of between 2 and 2.5%** over five years. A somewhat rosy scenario given that in 2013, **commercial sales actually fell by over 2%**!

Despite repeated requests, we have no further clear information on this new contract, which Fleur Pellerin says will "*soon be signed*."

**It is clear that trying to mobilise staff behind a credible strategic project that respects AFP's public interest mission is the last thing on management's mind!**

Mr Hoog, it's high time you told staff what's going on! *SUD* demands that the full text of the next Aims and Means Contract be handed over immediately to staff representatives.

## **Democracy, Anybody?**

AFP's statutes were **adopted unanimously** by the French parliament (an extremely rare event). The debate leading up to the 1957 law lasted several years, and was very transparent. AFP staff were also consulted, in an internal referendum in 1956, which delivered overwhelming approval.<sup>6</sup>

**And what is the current French government up to?** The joint HQ-status unions have asked for an appointment with Fleur Pellerin to seek further information. That's a start, but not enough.

- ***SUD* demands a major public debate on AFP's future**
- **The documents must be published !**
- **AFP staff should mobilise!**

Paris, September 15, 2014

***SUD*-AFP (SUD Culture & Médias Solidaires)**



<sup>5</sup> Cf. See our February 2012 statement, "A Major Victory, On to the Next Battle": <http://www.sud-afp.org/spip.php?article101>

<sup>6</sup> For an account of the process (in French only), see [http://www.sos-afp.org/fr/documents/huteau\\_ullmann](http://www.sos-afp.org/fr/documents/huteau_ullmann)