[FR] Conditions of transmitting matches of the football World Cup

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TPS, Canal Plus and AB Sat) In France, competition between programme bundles transmitted by digital satellite (is in full swing. A while ago, Canal Plus questioned whether the public service channels France 2 and France 3 should be able to conclude an exclusive carriage contract with TPS. This time, Canal Plus went to court to ask for an injunction against France 2 broadcasting recorded World Cup football matches on the Superfoot 98 programme.

Canal Plus had its case dismissed in a judgement by the Paris Commercial Tribunal on 25 May 1998.

Superfoot 98 is a programme in wide-screen (16/9) format dedicated entirely to broadcasting all World Cup matches on the TPS service at no extra cost to subscribers. France 2 and France 3 created the programme. Before the court, Canal Plus argued firstly that Superfoot was created in violation of article 3§12 of the EBU (European Broadcasting Union) statutes. This text forbids giving programme broadcasting rights to "another broadcasting organisation". The Paris Commercial Tribunal considered that Superfoot 98 did not come under this category as defined in the Community Directive "Television without Frontiers" and amended on 30 June 1997. This text states that a radio or television broadcasting organisation comprises a physical or moral person that has editorial responsibility for scheduling and broadcasting programmes. According to the tribunal, Superfoot is a temporary channel under the editorial responsibility of France 2, limited to showing football during the World Cup and thus does not qualify as broadcasting organisation.

Canal Plus then developed a second theme, arguing that France 2 created Superfoot without seeking to harmonise this scheduling with other member channels (TF1 and Canal Plus) of the French Broadcasting Grouping (FBG). The FBG holds French broadcast rights to the World Cup and represents French radio and television channels within the EBU. The tribunal accepted that France 2 had sought to co-ordinate with other channels and had obtained agreement, leading to a share-out of matches on the different generalist channels (excepting M6, which argues against its exclusion from FBG in a separate dispute).

Finally, Canal Plus emphasised the unfair competition practised by France 2. The tribunal also rejected this. The acquisition of broadcast rights by the FBG did not

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constitute a "sort of joint ownership" needing unanimity for their use by one or other member. The tribunal also noted that Canal Plus was itself free to transfer its rights to its own satellite channels, Canal Bleu and Canal Jaune, transmitted by Canal Satellite. The tribunal also judged that if France 2 did not divulge all its plans to its competitors in order to surprise them, this could not be considered as unfair competition but as normal commercial practice.

Tribunal de commerce de Paris, jugement du 25 mai 1998. SA Canal Plus c. SA France 2.

Paris Commercial Court, judgement of 25 May 1998. SA Canal Plus vs SA France 2.

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