[FR] Right of Reply to an Advertising Message on Television

IRIS 1998-8:1/10

Basile Ader
Légipresse

The Court of Cassation (2nd Civil Chamber) has recently (11 June 1998) delivered a decision stating that Article 6 of the Act of 29 July instituting a right of reply in the audiovisual communications services does not differentiate between the various possible forms of audiovisual communication and may therefore apply to an advertisement. The Court nevertheless recalled that, unlike the principles governing the written press, according to which a person need only be "designated" in a piece of writing to be entitled to reply, in audiovisual matters the message needed to contain "charges likely to damage" the honour or reputation of the person referred to.

In the case in hand, it was claimed that the channels TF1, France 2, France 3 and Canal + had not broadcast the right to reply sent to them by the National Flight Crew Union (SNPNC) following an advertisement for Air France broadcast by them, worded as follows: "This advertisement should have been devoted to presenting Air France's new cabins and new long-distance service. A revolutionary product. One of the best in the world. A product designed to meet the client's needs. Unfortunately, two commercial flight crew unions have decided to start a strike. Adapt or die? The vast majority of staff at Air France has already replied: live on." The Court of Cassation states that the Court of Appeal, having "rightly" upheld the decision that the advertisement did not contain any charges likely to damage honour or reputation, justified refusal to broadcast a reply for this reason alone. In fact, the Court of Appeal had said that the disputed Air France statement introduced by the term "unfortunately", while not questioning the fundamental freedom of employees, expressed regret at not being able to broadcast the advertisement and the company's opinion that it was an unfortunate moment to call a strike, as this rendered the product covered by the advertising campaign unavailable to the client at a time of brisk competition in the air transport market, suggested by the question "adapt or die?".

The Court of Appeal noted that the second part of the advertisement also mentioned that the unions calling the strike did not represent all the staff of Air France and that there were different opinions within the company. The Court concluded as a result that the disputed advertisement remained within the limits of normal freedom to criticise and did not make charges likely to damage the honour or reputation of the SNPNC.

© European Audiovisual Observatory (Council of Europe) 2026

Cour de Cassation - 2ème chambre civille, 11 juin 1998 - SNPNC c/ Lae Lay, Lescure et Elkabbach.

Court of Cassation - 2nd Civil Chamber, 11 June 1998; SNPNC v. Lae Lay, Lescure and Elkabbach.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026