[BE] VT4 Established in the Flemish Community and not in the UK

IRIS 1999-3:1/20

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On 17 February 1999 the Flemish Media Authority (Vlaams Commissariaat voor de Media) has made an important ruling concerning the application of Article 2 of the "Television Without Frontiers" Directive. The case concerns a complaint by the Flemish commercial TV-broadcaster VTM against VT4, a SBS-station. VT4 is a TV-broadcaster operating with a licence from the Independent Television Commission under UK law, while the programs of VT4 are exclusively targeted at the public of the Flemish Community. VTM argued that VT4 is to be considered a Flemish broadcaster falling under the application of the Flemish media legislation. According to VTM, VT4 manifestly infringes Article 46 of the Flemish Broadcasting Decree that contains the obligation to program at least two TV-newscasts a day.

The Flemish Media Authority found, in applying Article 2 of the Directive, that VT4 is in fact established in the Flemish Community. Although VT4 operates under an ITC-licence in application of the British Broadcasting Act, the Flemish Media Authority is of the opinion that the head office of VT4 is situated in the Flemish Community where the station develops its real economic activity and obtains its income from advertisements. The Media Authority is also of the opinion that the editorial decisions are not taken in London, but on Belgian territory. By 15 September 1999 VT4 is to request a licence as a Flemish broadcasting organisation and to conform to the media legislation of the Flemish Community. In a first reaction VT4 has announced its intention to appeal against this decision. The decision of the Flemish Media Authority may have the result that VT4's programs may no longer be transmitted by the cable networks in the Flemish Community. (For TV4 related reports see IIRIS 1999-2:15; IRIS 1997-9:4; IRIS 1997-8:56; IRIS 1997-7:5)

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Flemish Media Authority, decision nr. 1999/002, 17 February 1999, in case N.V. Vlaamse Televisiemaatschappij (VTM) v VT4 Ltd.

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