[FR] Canal Satellite Obliged to Amend its Subscription Contract

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In response to a claim brought by a consumer protection association, the company Canal Satellite (which markets a range of services and broadcasts digital television channels by satellite to its subscribers) has been ordered by the Regional Court of Paris to delete a number of clauses which were considered abusive from its subscription contract. According to the terms of Article L 132-1 of the Consumer Protection Code, clauses in contracts concluded between professionals and non-professionals or consumers are deemed to be abusive if their purpose or effect is to create a significant imbalance to the disadvantage of the non-professional or consumer between the rights and obligations of the contracting parties; such abusive clauses are to be considered as void. However, according to Article 2 of the Canal Satellite subscription contract, the duration of the subscription is six or twelve months and the contract may only be terminated by the subscriber on the normal renewal date of the subscription. The applicant association maintained that this article created an imbalance between the rights of the parties, in particular in combination with a further clause which allows Canal Satellite to amend, without prior notification, the composition of the selection of theme channels offered. The Court found that a consumer did not have the possibility of terminating the contract except on its renewal date, and was therefore unable to end it for legitimate reasons, particularly in the event of channel amendments being made. Article 2 of the contract was therefore found to be abusive and the Court ordered its deletion. The same applied to the provisions concerning the amendment, termination and the interruption of certain programmes by Canal Satellite without first informing the subscriber and without the subscriber having the possibility of terminating the contract. The association also challenged Article 7-1 on the subscription charge, as subscribers are only informed of changes by a notice in the company's magazine, Le magazine des abonnés. Here again the Court upheld the applicant's arguments; it considered that the subscription charge constituted a substantial element in the agreement binding the parties and that the consumer should be informed of any change made to it. This information could not be reduced to a circular memorandum appearing in a magazine produced by Canal Satellite; it should be notified to each subscriber individually. The Court also cancelled the clause in the subscription contract which waived any liability on the part of Canal Satellite in the event of technical difficulties arising in the functioning of the broadcasting satellites. The Court found that this clause was not specific enough and prevented determining

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whether it was possible for the company to take steps to prevent or remedy any malfunction.

Since a number of clauses in the disputed subscription contract had been deleted, the Court found that it was in the interests of consumers for the judgment to be brought to their attention, and consequently ordered its publication in a television magazine.

Tribunal de grande instance de Paris (1 ch.), 10 octobre 2000 - Association Consommation Logement Cadre de vie c/ Canal Satellite

Regional Court of Paris (1st chamber), 10 October 2000 Association Consommation Logement Cadre de Vie v. Canal Satellite

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