[FR] “Cable Decree” Amended and Extended to Include Channels Broadcast by Satellite

IRIS 2001-8:1/15

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Adopted on the basis of Article 33 of the Act of 30 September 1986 (as amended), the Decree of 1 September 1992 sets down the obligations incumbent on each category of radio and television services distributed by cable. A decree adopted on 9 July this year amends the text in two ways.

The purpose of the first set of amendments is to ensure that the 1992 Decree is compatible with Community law. On 19 April 1999, the European Commission applied to the Court of Justice of the European Communities claiming that French regulations failed to comply with a number of provisions of the "Television Without Frontiers" Directive of 3 October 1989. The Commission entered a second complaint on 29 March 2000 for failure to transpose into national legislation the amendments made to the Directive by Directive 97/36/EC. The complaints brought by the European Commission concerned more particularly the Decree of 1 September 1992. The fact that the text applies to programmes "broadcast from" France could indeed appear to be out of line with the criterion of the place of establishment which, according to the amended Directive on "Television Without Frontiers", is the only valid criterion for determining which national law within the European Union is applicable to any given television broadcasting body. The new Decree also deletes the second paragraph of Article 4 of the 1992 decree that provided for the application of French regulations to a service established in another country if the sole purpose of such establishment was to evade the regulations in force in France. The new Decree also discontinues the agreement procedure previously applicable to channels under the authority of another member State, substituting a straightforward scheme of prior declaration. Lastly, the provisions concerning teleshopping and self-promotion have been adjusted to correspond more closely to the requirements of the amended "Television Without Frontiers" Directive.

The purpose of the second series of amendments is to bring the Decree of 1 September 1992 into line with the new provisions of the Freedom of Communication Act. In a new Article 33, the Act of 1 August 2000, amending the Act of 30 September 1986, unifies the agreement scheme for channels broadcast by satellite and that of channels broadcast on cable networks. Thus the new text extends the scope of the 1992 Decree, limited until now to cable programmes, to include channels broadcast by satellite.

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The obligations of channels broadcast exclusively by cable and satellite should moreover be defined in the near future in a new decree that is currently in preparation.

Décret n° 2001-610 du 9 juillet 2001 modifiant le décret n° 92-882 du 1 septembre 1992 et relatif au régime applicable aux différentes catégories de services de radiodiffusion sonore et de télévision distribués par câble ou diffusés par satellite, JO du 11 juillet 2001

Decree No. 2001-610 of 9 July 2001 amending Decree No. 92-882 of 1 September 1992 and concerning the scheme applicable to the various categories of radio and television broadcasting services distributed by cable or broadcast by satellite, Official Journal dated 11 July 2001

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