[BE] RTL-TVI Opposes AB 3 to no Avail

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Since 6 October 2001, the French-speaking Community of Belgium has had a new private television channel available to it. RTL-TVI, the former Luxembourg channel that became Belgian in 1986, and its little sister Club RTL have now been joined by AB 3. This is AB 3 as in "Antenne belge 3", whose French-sounding name was preferred to YTV (Youth Television), which had originally been chosen to indicate the main target of the new channel (15-35 year olds). But also AB 3 as in the French AB Group, which acquired an important share in the capital of the new channel (originally totally Belgian-owned) during the summer of 2001.

And that is nub of the matter. RTL-TVI wanted to stop AB 3 broadcasting, and consequently brought two urgent court cases. It based its arguments on a provision of the authorisation agreement concluded between YTV and the government requiring the founders of the new channel to undertake to retain at least 50% of its capital for a three-year period. RTL-TVI felt that the involvement of the AB Group in the capital of YTV/AB 3, achieved by means of an increase in capital, should be interpreted as a loss of control by the three original founders, who are natural persons.

RTL brought the first court case directly against the government of the French-speaking Community in an attempt to make it withdraw AB 3's authorisation. This was deemed inadmissible by the presiding judge of the court of first instance in Brussels, who found that no rule or agreement had created any subjective right on the part of RTL to maintain a monopoly over the private tele

One month later, the presiding judge of the commercial court in Brussels threw out the second case brought by RTL, brought this time against YTV / AB 3. Here the judge noted that the founders of the new company were themselves companies rather than natural persons, and that these companies remained the majority shareholders in the new company, even if the structure of their own body of shareholders had changed.

Civ. Bxl (réf.), 12 novembre 2001, S.A. Tvi contre Communauté française

Civil courts in Brussels (urgent cases), 12 November 2001, S.A. TVI v. French-speaking Community

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Comm. Bxl (Prés.), 5 décembre 2001, S.A. Tvi c. S.A. YTV

Commercial courts in Brussels (presiding judge), 5 December 2001, S.A. TVI v. S.A. YTV

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