[FR] Appeal to the CSA to Put a Stop to Pornographic Films (continued)

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On 15 October, the Chairman of the Conseil supérieur de l'audiovisuel (the audiovisual regulatory body - CSA) renewed his call for the public authorities (see IRIS 2002-8: 7) to incorporate Article 22 of the "Television Without Frontiers" Directive word-for-word in the Audiovisual Communications Act, thereby formally prohibiting the broadcasting of pornographic programmes on French television. According to Article 15 of the Act of 30 September 1986, the CSA is required to ensure that no programme likely to be seriously damaging to the normal physical, mental or moral development of minors is made available to the public via sound radio and television, whereas Article 22 of the Directive refers specifically to programmes containing scenes of pornographic or gratuitous violence, terms which the regulatory body would like to see incorporated in French legislation. Viviane Reding, the European Commissioner with responsibility for audiovisual matters, said in a letter to Dominique Baudis that Article 22 constituted a measure of partial harmonisation as the Directive did not contain any definition of what might be considered to be "seriously damaging". It was therefore up to the national authorities to determine the criteria for determining what constituted "seriously damaging", and in consequence what should be prohibited. This had been confirmed by relevant case law. The Commission thus confirmed that although the Commission considered that the text France has incorporated is enough to comply with the Directive, there was nothing in the Directive to prevent a country imposing more stringent measures on the broadcasters over which it had authority. The CSA has however indicated that its position remains unchanged.

The question is dividing the political groups. The Minister for Culture and Communications said that he was strongly in favour of the concept of viewers' freedom of choice; he felt that, as long as instant access to such programmes was not possible because of encryption or because a specific subscription was required, parents were able to exercise their responsibility, an opinion shared by the President of the National Assembly, Jean-Louis Debré, and the opposition MP Laurent Fabius. Canal + and the AB Group (which produces the pornographic channel XXL) have already informed the CSA of new technical solutions for encrypting pornographic films. MPs have also been looking into the matter, and three MPs from the Government majority have tabled a bill aimed at making the broadcasting of pornographic films on television subject to the introduction of a

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system of double encryption with deliberate unlocking; this system would oblige an adult wanting to watch a violent or pornographic broadcast to enter a confidential code, meaning that minors would no longer have access to such films inadvertently, without an adult's supervision.

Furthermore, when they were examining the draft budget for 2003, MPs voted for an amendment that would double the tax levied on profits generated by the production, distribution or representation of pornographic films or films encouraging violent behaviour (from 33% to 60%), but in the end the text was withdrawn. It would appear that the CSA's appeal has been heard, although specific solutions have not yet been determined.

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