[FR] Reorganisation of Frequencies for Terrestrially-broadcast Digital Television - CSA Appeals to the Conseil d'État

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Implementing terrestrially-broadcast digital television requires a partial reorganisation of Hertzian frequencies. The CSA (Conseil supérieur de l'audiovisuel - audio-visual regulatory body) therefore decided, on 30 April 2002, to implement a first stage of seventeen rearrangements involving several television services authorised for terrestrially-broadcast analog television. This stage was to be carried out as an experiment in order to assess more particularly the cost of the operation that should in the end cover 1500 frequencies, so that 80% of the population will be able to receive terrestrially-broadcast digital television. The channels had been given a long period for substituting these frequencies, and the process was to be complete by 1 March 2003. The rearrangements have only been applied to the frequencies occupied by France Télévisions, however; neither TF1 nor M6 have made the slightest move to apply the rearrangement decisions concerning them.

This state of affairs has resulted in broadcasting since 1 March 2003 from five sites (Coulommiers, Fosses-Marly, Erquy, Guingamp and La Baule) on frequencies that are no longer attributed to them, and the CSA instructed its Chairman to lodge an application in an urgent matter with the Conseil d'État to have the companies obliged to carry out these frequency rearrangements which are necessary for the launch of terrestrially-broadcast digital television. Article 42-10 of the amended Act of 30 September 1986 does indeed allow the Chairman of the CSA, in the event of an audio-visual communication service failing to adhere to "the body of audio-visual legislation", to "apply to the Courts for the person responsible to be ordered to comply with such provisions, to put an end to the irregularity in question or to cancel out its effects". Application was therefore made to the presiding judge of the disputes section of the Conseil d'État, who deliberates in urgent matters; his decision is enforceable immediately. The presiding judge may, even on his own initiative, order any measure of compliance or coercive fine to be paid into the public revenue department in respect of enforcement of his order. This possibility of the CSA applying to the Conseil d'État should be emphasised; the last time this was done on the basis of Article 42-10 was as long ago as 1989!

The CSA asked the Conseil d'État to include in its order a coercive fine, the amount of which was intended to have a dissuasive effect on the channels,

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forcing them to apply the decision to reorganise the frequencies as quickly as possible. The CSA asked the judge to determine the amount of the daily coercive fine on the basis of the profits made by each company, claiming EUR 100 000 for TF1 and EUR 75 000 for M6, payable starting one month after the Conseil d'État delivered its decision. The Conseil d'État delivered its decision on 27 March, ordering TF1 and M6 to stop broadcasting on the frequencies intended for terrestrially-broadcast digital television within a period of one month and to start broadcasting their programmes on the new frequencies allocated by the CSA. The order states that, beyond this deadline, they are liable to pay a coercive fine per day of delay amounting to EUR 15 000 for M6 and EUR 30 000 for TF1.

Conseil d'Etat (ord. réf.), 27 mars 2003 - Métropole Télévision

Conseil d'Etat, ord. réf., 27 March 2003 - Métropole Télévision

Conseil d'Etat, ord. réf., 27 mars 2003 - TF1

Conseil d'Etat, ord. réf., 27 March 2003 - TF1

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