[IE] Supply and Connection of Cable Taxable as Separate Services

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The Supreme Court has decided that the supply of cable signal and the connection of viewers to cable are distinct services for the purposes of value added tax (VAT). The respondents, who were suppliers of cable television and radio services providing multi-channel viewing or listening, charged householders under separate headings for the connection of the service and the service itself (an initial fee to obtain the connection and then an annual fee for supply of the signal). VAT should therefore have been paid at a lower rate than in the case of a single supply. An EC Directive of 1977 requires Member States to subject to VAT all supplies of goods and services, but allows for certain exemptions. The detailed list of taxable goods and services is left to national laws. The Court found the approach of the European Court of Justice (ECJ) persuasive. The ECJ had said that regard must first be had to all the circumstances in which the transaction takes place, and it attached particular weight to the economic character of the supply of services. A single economic service should not be artificially divided; a single price may not be decisive but may be indicative of a single service, just as separate prices may suggest separable supplies, in the opinion of the Supreme Court. The Supreme Court listed several features of the entire service supplied by the respondents that in the Court's view warranted treating the connection as a distinct supply from delivery of the signal itself.

D.A. Mac Carthaigh, Inspector of Taxes (appellant) v Cablelink Ltd, Cablelink Waterford Ltd and Galway Cable Vision (respondents), Supreme Court 19 December 2003, Fennelly, J., nem.diss.

http://www.bailii.org/ie/cases/IESC/2003/60.html

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