[FR] Decree Lays Down Details for Commercialising Rights for the Audiovisual Exploitation of Sports Competitions

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The ownership of audiovisual rights for sports events and competitions is regulated in France by Article 181 of the Act of 16 July 1984 as amended by the Act of 1 August 2003, according to which "The federations [...] and the organisers [...] own the right to exploit the sports events or competitions they organise."

The Decree of 15 July 2004 has now laid down the procedure for the professional leagues to commercialise their audiovisual rights. The text gives them exclusive rights for the commercialisation of all the rights for audiovisual exploitation and broadcasting, either live or recorded moments earlier, in full or as extracts, for all the matches and competitions they organise. In its opinion delivered on 28 May on the draft of the Decree, the Conseil de la concurrence (national competition board) felt that giving the leagues this exclusivity "was not contrary to the rules of competition and could be justified from an economic point of view". Moreover, the possibility of a single operator, by making the highest bid for each lot, being allocated all the rights "could not be considered a prohibited practice". Furthermore, according to the recommendations issued by the national competition board, the Decree provides that rights other than those commercialised by the leagues (rights covering the broadcasting of recordings of competitions) lie with the clubs, under a written agreement laying down the relevant terms.

In order to reduce the risks to competition that could be generated by the exclusivity given to the leagues to commercialise most of the audiovisual rights, Article 3 of the Decree requires the call for tenders to be open to all editors and distributors of services. The rights are to be offered in a number of separate lots, the number and constitution of which must take account of the characteristics of the markets on which they are offered for sale. The purpose of this provision is to prevent the constitution of a lot or a number of lots on such a large scale that they could only be acquired by the most powerful operators. The choice of the successful applicant making the best offer is to be made on the basis of criteria defined in advance in the regulations governing the call for tenders. Contracts may not be concluded for a period of more than three years, and the league in question must turn down any global or joint offers and any offers that include price supplements. These new provisions will be implemented next October, when the French football championships for the period 2005-2008 are put out to tender.

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Avis n° 04-A-09 du 28 mai 2004 du Conseil de la concurrence relatif à un projet de décret sur la commercialisation par les ligues professionnelles des droits d'exploitation audiovisuelle des compétitions ou manifestations sportives

http://www.conseil-concurrence.fr/pdf/avis/04a09.pdf

Opinion no. 04-A-09 of 28 May 2004 of the national competition board concerning a draft Decree on the commercialisation by the professional leagues of the rights to the audiovisual exploitation of sports competitions and events

Décret n° 2004-699 du 15 juillet 2004 pris pour l'application de l'article 18-1 de la loi n° 84-610 du 16 juillet 1984 et relatif à la commercialisation par les ligues professionnelles des droits d'exploitation audiovisuelle des compétitions ou manifestations sportives, Journal officiel, 16 juillet 2004

http://www.legifrance.gouv.fr/

Decree No. 2004-699 of 15 July 2004 made to allow application of Article 18-1 of Act No. 84610 of 16 July 1984 concerning the commercialisation by the professional leagues of the rights to the audiovisual exploitation of sports competitions and events, gazetted (published in the Journal Officiel) on 16 July 2004

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