[FR] CSA Examines Sports News

IRIS 2008-3:1/18

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In an opinion published on 8 February 2008, the audiovisual regulatory authority (*Conseil Supérieur de l'Audiovisuel* - CSA) announced that it was toughening its position on the visibility of cigarette brand names during television broadcasts of motor sport competitions. As an exception to the general principle banning advertising of tobacco products set out in Article L. 3511-3 of the Public Health Code, "television channels may broadcast motor sport competitions that take place in countries where advertising for tobacco is permitted" (Art. L. 3511-5 of the Code). Previously it had been considered in the case law that the notion of "broadcasting" provided for in Article L. 3511-5 was not limited to the competition itself, but also included everything surrounding the event that provided information to viewers. On 24 September 2007, the court of appeal in Paris, to which the matter had been referred by the *Comité National contre la Tabagisme* (national committee against the abuse of tobacco), adopted a much more restrictive definition of the notion of "broadcasting motor sport competitions". Since current technology makes it possible, when broadcasting after the event, to delete all references to brands of cigarettes, the court felt that the exception provided for in Article L. 3511-5 should only refer to the live broadcasting of sports events. If the brand names of cigarettes were visible during programmes scheduled for broadcasting several hours or even several days after the competition actually takes place, the television service would be violating Article L. 3511-3 of the Public Health Code. The court of appeal in Paris, therefore, held that news reports, interviews, broadcasts, credits and trailers did not fall within the scope of the exception provided for in Article L. 3511-5. The CSA therefore took note of this new case law. Henceforth, it will not accept the appearance of brands of cigarettes except in the context of the live broadcasting of a motor sport competition. Moreover, the CSA announced, on 11 February 2008 that it was launching a "concerted study" in order to envisage the most suitable solutions for guaranteeing the proper application of the right to quote and, more generally, the right to information in the context of sport. Since the introduction of the Act of 13 July 1992, which laid down the relevant principle, the offer of audiovisual programmes devoted to sport has changed considerably. The launch of continuous news television channels, the creation of new generalist channels, the appearance of non-linear sport content available on the Internet and on mobile phones are all factors that make it necessary to consider all the legal arrangements in force and their relevance in the light of the new audiovisual landscape. More particularly, the CSA says that it has been approached in recent

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months by a number of service editors, who wish to know the CSA position on a possible updating of the rules defining broadcasters' access to images of sports events. One of these editors was, for example, France Télévisions, who had lost its magazine devoted to premier league football when the professional football league put out tenders, and was claiming entitlement to five to ten minutes of images for each day of League 1 football, whereas the 1992 Act authorised no more than one and a half minutes per weekend of the championship. Furthermore, the new AMS Directive of 11 December 2007, which ought to be transposed into French law sometime in 2008, gives television services a right of access to short extracts of broadcasts of events of major interest to the public. It is also with this in mind that the CSA is launching its consideration of the issue, with a view to respecting the legitimate interests of the public, the service editors, and everyone involved in the world of sport.

Assemblée plénière du 15 janvier 2008, Publicité pour des marques de produits de tabac au cours des retransmissions sportives : nouvelle jurisprudence

http://www.csa.fr/infos/textes/textes_detail.php?id=125933

Plenary assembly held on 15 January 2008: Advertising for tobacco brands and products during sports broadcasts – new case law

Communiqué de presse du CSA, Le droit à l'information en matière sportive : le CSA entreprend une réflexion concertée, 11 février 2008

http://www.csa.fr/actualite/communiques/communiques_detail.php?id=125987

CSA press release: The right to information on sport – the CSA undertakes concerted study; 11 February 2008

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