[HU] Application of Article 2a of the TVWF Directive

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The European Commission has closed its procedure in accordance with Article 2a of the TVWF Directive involving the Romanian and the Hungarian media authorities and a television broadcaster called Cool Tv.

Cool Tv is a television channel operating under Romanian jurisdiction but broadcasting in the Hungarian language for primarily Hungarian audiences. In recent years the *Országos Rádió és Televízió Testület* (Hungarian National Radio and Television Commission - ORTT) has received several complaints from viewers regarding one particular programme of the broadcaster entitled “Cool Sex”. The programme, which contained explicit scenes was broadcast in the early afternoon hours.

The ORTT established that the content of the episodes of “Cool Sex” was harmful to minors, thus, according to the corresponding rules of Act I of 1996 on Radio and Television Broadcasting (Broadcasting Act), and it should only have been broadcast after 10.00 pm. The ORTT also established that the conduct of Cool Tv constituted an infringement of Article 22 of the TVWF Directive, and informed the *Consiliul Naţional al Audiovizualului* (Romanian National Broadcasting Council – CNA) accordingly.

Article 52/A. § of the Hungarian Broadcasting Act, consistent with Article 2a of the TVWF Directive, provides the possibility for the ORTT to restrict the retransmission (i.e. to prohibit the cable distribution) of a television broadcast coming from another EU Member State if it manifestly, seriously and gravely infringes, *inter alia* , Article 22 of the TVWF Directive. The ORTT launched the corresponding procedure in August 2007 by informing its Romanian counterpart and the European Commission of its intention to derogate from the principle of freedom of reception and retransmission as enshrined in Article 2 of the TVWF Directive.

During the procedure, the CNA also examined the programming of Cool Tv. The CNA’s inquiry found that Cool Tv had ceased to broadcast its programme “Cool Sex” but continued to broadcast other programmes of a similar nature in the early afternoon hours. As a consequence the CNA publicly warned the broadcaster to change its conduct and to broadcast the programmes concerned after 10.00 and 11.00 pm.

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Following the decision of the CNA the European Commission suggested that the ORTT should cease the procedure aimed at derogating from the principle of freedom of retransmission in the case of Cool Tv. Considering the decision of the CNA as an effective remedy, the ORTT agreed with the proposal that led to the closure of the procedure.

ORTT, Az Országos Rádió és Televízió Testület közleménye a Cool TV műsora kapcsán indított európai uniós eljárásról

http://www.ortt.hu/hirek.php?hir_id=296

Press Release of the ORTT

CNA, Decizia nr. 84 din 07.02.2008

http://www.cna.ro/Decizia-nr-84-din-07-02-2008.html?var_recherche=Cool%20Tv

Decision of the CNA nr. 84 of 7 February 2008

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