[FR] Legality of the CSA Deliberation Aimed at Protecting Under-3s from the Effects of Television

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In a deliberation adopted on 22 July 2008 “aimed at protecting children under the age of three years from the effects of television”, the Conseil Supérieur de l’Audiovisuel (audiovisual regulatory body - CSA) required the distributors of television services established in France to warn their subscribers regularly of the risks television poses for children under the age of three years, even in the case of channels directed specifically at them, and to pass on the same message in their communication documents and in their subscription contracts. Promotion of television services presented as being specifically designed for children under the age of three years is not allowed either. The American company Baby First, which edits a television channel distributed in France that is specifically directed at children under the age of three years, brought the matter before the Conseil d’Etat with a view to having the CSA’s deliberation cancelled.

In a decision delivered on 26 May 2010, the Conseil d’Etat stated firstly that the applicant did indeed have an interest in contesting the deliberation at issue, as its programmes were available in France by means of distribution by a satellite operator with a registered office in France, where the operator distributed services specifically designed for children under the age of three years. On the substance of the case, the deliberation at issue, which is in the form of a regulatory document, did not have to be preceded by proceedings in the presence of the parties. The CSA could validly collect from the Ministry of Health, as it had done, all the information it needed for reaching its decisions. No proof had been furnished that it had considered itself to be bound by the opinion of the Ministry, nor that it had renounced the exercising of its own appreciation of the matter of the protection of children under the age of three years from the effects of television. Moreover, the obligation incumbent on distributors, introduced by the deliberation, to broadcast a warning on the effects of television on very young children concerned both the channels specifically directed at that age group and the other programmes. The deliberation therefore did not introduce a breach of the equality of the various television services directed at young viewers. The Conseil d’Etat held that the applicant company was not justified in calling for the cancellation of the deliberation at issue.

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Conseil d'Etat (sect. contentieux), 26 mai 2010, Société Baby First c/ Conseil supérieur de l'audiovisuel

Conseil d'Etat (disputes section), 26 May 2010, Baby First v Conseil Supérieur de l'Audiovisuel

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