[FR] Conseil d’Etat Confirms Numbering of New DTV Channels

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On 3 July 2012, the audiovisual regulatory authority (Conseil Supérieur de l’Audiovisuel - CSA) authorised six new free-view high definition (HD) channels on terrestrially-broadcast digital television (HD1, L’Equipe TV, 6 ter, Tvou la Télédiversité, RMC Découverte, Chérie HD). On 24 July 2012, in the presence of representatives of the channels, the authority drew lots for allocating numbers to these six new channels, which are to start broadcasting on 12 December 2012. The new numbering is the result of firstly the allocation of the logical numbers 1 to 29 to the national television services previously broadcast in analog mode and to the unencrypted services broadcast terrestrially in digital mode, which were previously numbered 1 to 19. Local television services broadcast terrestrially, which were previously numbered 20 to 29, have now been allocated the numbers 30 to 39. However, a number of organisations, representing about forty local channels, referred the CSA’s decision to shift the numbers allocated to them up by ten in order to leave room for the six new channels to the Conseil d’Etat under the urgent procedure. The applicants called for the suspension of enforcement of the CSA’s deliberation, on the grounds that it was a serious and immediate infringement of the interests of the other local free-view channels and of the interest of viewers, by changing the logical number - a fundamental feature of channel identification - particularly when there were other solutions for numbering the new channels. They also argued that no text gave the CSA the right to revoke a decision attributing a logical number, and that the deliberation at issue disregarded the principles of equality of treatment, non-discrimination, and free competition.

In its order of 23 October 2012, the Conseil d’Etat recalled that the provisions of Article 30-1 of the Act of 30 September 1986 gave the CSA the power to authorise the use of broadcasting resources for television services, including the organisation of broadcasting these services by laying down the rules for the logical numbering of the channels - and therefore also the power to change them. Consequently, the claims based on the disputed deliberation, which is in the form of regulations, would have no legal foundation, and could not give rise to “serious doubt as to its legality”, which is a prerequisite for the administrative courts under the urgent procedure ordering the suspension of performance of an administrative decision. Similarly, the Conseil d’Etat found that preparatory investigation of the case did not show that the deliberation of the CSA, which

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must also ensure the uniform nature of the numbering of the services, had disregarded the principles of equality and non-discrimination, or the principle of free competition. Nor were any of the other arguments raised against the disputed deliberation able to create a serious doubt as to its legality. Thus, and without even needing to pronounce on the conditions of urgency, the administrative judge found that the applicants had no grounds for requesting the suspension of the decision at issue.

The applicants said that they were “consternated” by the order, which “encouraged them to pursue their action on the merits of the case”. For its part, the CSA issued a communiqué confirming “the commencement of the broadcasting of these six new channels on 12 December 2012 and their gradual extension to the whole of mainland France”.

Conseil d’Etat (ord. réf.), 23 octobre 2012 - Association Bocal et a.

Conseil d’Etat (order under the urgent procedure), 23 October 2012 - the association Bocal et al.

Communiqué du CSA, Calendrier de déploiement des nouvelles chaînes HD de la TNT, 25 octobre 2012

http://www.csa.fr/index.php/Espace-Presse/Communiques-de-presse/Calendrier-de-deploiement-des-nouvelles-chaines-HD-de-la-TNT

CSA communiqué. Schedule for deployment of the new HD channels on DTV, 25 October 2012

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