

Supreme Court settles battle over short extracts of football matches

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On 20 December 2019, the Spanish Supreme Court settled the longstanding legal conflict between Mediaset and the National Professional Football League (LNFP) concerning their different interpretation of the right of access to football stadiums and the broadcasting of short news summaries of the matches.

In September 2015, Mediaset had denounced before the Comisión Nacional de los Mercados y la Competencia (National Commission of Markets and Competition - CNMC) that the LNFP was violating its right to information by limiting its access to the stadiums. A few days later, the CNMC issued precautionary measures whereby the LNFP had to guarantee Mediaset's access to the stadiums until the conflict presented by the audiovisual group had been resolved.

In January 2016, a CNMC resolution established that according to the provisions of Article 19.3 of the General Law of Audiovisual Communication (LGCA), the LNFP had to allow Mediaset access to the stadiums (see IRIS 2017-8/15). Furthermore, Mediaset would have the right to broadcast 90-second summaries of each League match in its general news programmes, and not a maximum of 90 seconds in total of images per game day, as the LNFP had contended. The CNMC also ruled that the right to use these short extracts would expire 24 hours after the end of the match, and the media could only use the images of the matches in two general news programmes. The LNFP appealed the CNMC's resolution before the courts of justice.

In its judgment, the Supreme Court explained that, were the 90 seconds to refer to all matches per game day, it would be insufficient to conform to the minimum content of the information to the public, since it would mean dedicating to each one of the individual matches about 15 seconds. Recalling its previous case law and the jurisprudence of the Spanish Constitutional Court, the Supreme Court explained that Article 19.3 of the LGCA does not disproportionately affect the right to property and freedom of enterprise enshrined in Articles 33 and 38 of the Constitution. The broadcasting of 90-second summaries per match without remuneration would not prevent the LNFP's marketing of the League exploitation rights. Taking also into consideration the social relevance of professional football, the Supreme Court concluded that the interpretation made by the CNMC in 2016 had been in line with the guidelines of the AVMS Directive and the interpretation

made by the Court of Justice of the European Union.

Judgment of the Supreme Court, Roj: STS 4151/2019 - ECLI: ES:TS:2019:4151, 20 December 2019

