iris
LEGAL OBSERVATIONS
OF THE EUROPEAN AUDIOVISUAL OBSERVATORY

2005 - 8

INTERNATIONAL

OSCE

COUNCIL OF EUROPE

EUROPEAN UNION

NATIONAL

OBSERVATOIRE EUROPÉEN DE L'AUDIOVISUEL
EUROPEAN AUDIOVISUAL OBSERVATORY
EUROPÄISCHE AUDIOVISUELLE INFORMATIONSSTELLE

IRIS LEGAL OBSERVATIONS
OF THE EUROPEAN AUDIOVISUAL OBSERVATORY

INTERNATIONAL

OSCE

Representative on Freedom of the Media: Joint Declaration on Internet Freedom Issued by OSCE and RSF

The 2005 Amsterdam Internet Conference, the third of its kind, closed on 18 June 2005 with the OSCE Representative on Freedom of the Media issuing a "Joint Declaration on Guaranteeing Media Freedom Online" together with the Paris-based NGO Reporters sans frontières.

The conference brought together leading international experts on human rights and the Internet from Western and Eastern Europe, the Caucasus, Central Asia and North America. OSCE Media Freedom and City Council of Amsterdam representatives opened the conference.

Presentations held throughout the conference focused on the early regime of making laws regarding the Internet, on the ECHR decision Steel & Morris v United Kingdom and on examples of the new potentials the Internet offers; time was also made for reports on the situation of media freedom on the Internet in South Caucasus and Central Asia.

The Joint Declaration lists six main principles for protecting online media freedom and stresses, *inter alia*, that in a democratic and open society, citizens should decide for themselves what they wish to access and view on the Internet. Any filtering or rating of online content by governments is unacceptable and websites should not be required to register with governmental authorities.

The declaration states that "any law about the flow of information online must be anchored in the right to freedom of expression as defined in Article 19 of the Universal Declaration of Human Rights".

It also makes clear that Internet writers and online journalists, including bloggers, should be legally protected under the basic principle of the

• **Publisher:**
European Audiovisual Observatory
76, allée de la Robertsau
F-67000 STRASBOURG
Tel.: +33 (0)3 88 14 44 00
Fax: +33 (0)3 88 14 44 19
E-mail: obs@obs.coe.int
http://www.obs.coe.int/

• **Comments and Contributions to:**
iris@obs.coe.int

• **Executive Director:** Wolfgang Closs
• **Editorial Board:** Susanne Nikoltchev, Co-ordinator – Michael Botein, The Media Center at the New York Law School (USA) – Harald Trettenbrein, Directorate General EAC-C-1 (Audiovisual Policy Unit) of the European Commission, Brussels (Belgium) – Alexander Scheuer, Institute of European Media Law (EMR), Saarbrücken (Germany) – Bernt Hugenholtz, Institute for Information Law (IViR) at the University of Amsterdam (The Netherlands) – Jan Malinowski, Media Division of the Directorate of Human Rights of the Council of Europe, Strasbourg (France) – Andrei Richter, Moscow Media Law and Policy Center (MMLPC) (Russian Federation)

• **Council to the Editorial Board:**
Amélie Blocman, *Victoires Éditions*

• **Documentation:** Alison Hindhaugh

• **Translations:** Michelle Ganter (co-ordination) – Brigitte Auel – Véronique Campillo – Kerry Goyer – Tama Moiser – Marco Polo Sàrl – Katherine Parsons – Stefan Pooth – Patricia Priss – Erwin Rohwer – Nathalie-Anne Sturlèse – Gillian Wakenhut

• **Corrections:** Michelle Ganter, European Audiovisual Observatory (co-ordination) – Francisco Javier Cabrera Blázquez & Susanne Nikoltchev, European Audiovisual Observatory – Florence Lapérou & Géraldine Pilard-Murray, post graduate diploma in *Droit du Multimédia et des Systèmes d'Information*, University R. Schuman, Strasbourg (France) – Candelaria van Strien-Reney, Law Faculty, *National University of Ireland*, Galway (Ireland) – Mara Rossini, Institute for Information Law (IViR) at the University of Amsterdam (The Netherlands) – Natali Helberger, Institute for Information Law (IViR) at the University of Amsterdam (The Netherlands) – Kathrin Berger, Institute of European Media Law (EMR), Saarbrücken (Germany)

• **Marketing Manager:** Markus Booms

• **Typesetting:** Pointillés, Hoenheim (France)

• **Print:**
NOMOS Verlagsgesellschaft mbH & Co. KG,
D-76520 Baden-Baden

• **Layout:** Victoires Éditions

ISSN 1023-8565

right to freedom of expression and the associated rights of privacy and protection of sources.

The Declaration once more stresses that Internet Service Providers (ISP) must not be held responsible for the mere conduit or hosting of content unless they refuse to obey a court ruling and that all Internet content should be subject to the legislation of the country of its origin ("upload rule") and not to the legislation of the country where it is downloaded.

The Amsterdam 2005 Joint Declaration is the latest in a series of recommendations that have been developed in recent years by the OSCE Media Representative; their objective being to protect media freedom on the Internet. The first Internet Conference in 2003, led to the publication of the Amsterdam Recommendations and the conference's findings were compiled and published as *Spreading the Word on the Internet* (see IRIS 2003-8: 2). The second Internet Conference, the following year, produced the *Media Freedom Internet Cookbook* which is available in English and Russian and includes more detailed 'recipes' and good practices (see IRIS 2005-2: 3). ■

Christian Möller
Project Officer
Office of the OSCE Representative on Freedom of the Media

● **Documents from the Amsterdam Internet Conferences, available at:**
http://merlin.obs.coe.int/redirect.php?id=9760
EN

● **Joint declaration of the OSCE Representative on Freedom of the Media and Reporters Sans Frontieres on guaranteeing media freedom of the Internet from 18 June 2005, available at:**
http://merlin.obs.coe.int/redirect.php?id=9761
EN-FR-RU

COUNCIL OF EUROPE

European Court of Human Rights: Case of Independent News and Media v. Ireland

In a judgment of 16 June 2005, the European Court of Human Rights is of the opinion that a conviction to pay an award of damages of EUR 381.000 because of defamatory statements in a press article criticizing a politician is not to be considered as a violation of Article 10 of the European Convention of Human Rights.

In 1997 a High Court jury in Ireland found an article published in the Sunday Independent robustly criticizing a national politician, Mr. de Rossa, to be defamatory and awarded Mr. de Rossa IEP 300.000 (EUR 381.000) in damages. The award, which was upheld by the Supreme Court, was three times the highest libel award previously approved in Ireland. The litigious article referred to some activities of a criminal nature of Mr. de Rossa's political party and criticised his former privileged relations with the Central Committee of the Communist Party of the Soviet Union. According to the article, Mr. de Rossa's political friends in the Soviet Union "were no better than gangsters (..). They were anti-Semitic". In upholding the award of damages, the Supreme Court took into account a number of factors, including the gravity of the libel, the effect on Mr. de Rossa as leader of a political party and on his negotiations to form a government at the time of publication, the extent of the publication, the conduct of the first applicant newspaper and the consequent necessity for Mr. de Rossa to endure three long and difficult trials. Having assessed these factors, it concluded that the jury would have been justified in going to the top of the bracket and awarding as damages the largest sum that could fairly be regarded as compensation. While IEP 300,000 was a substantial sum, it noted that the libel was serious and grave, involving an imputation that Mr. de Rossa was involved in or tolerated serious crime and personally supported anti-Semitism and violent Communist oppression. "Bearing in mind that a fundamental principle of the law of compensatory damages is that the award must always be reasonable and fair and bear a due correspondence with the injury suffered and not be disproportionate thereto", the Supreme Court was not satisfied that "that the award made by the jury in this case went beyond what a reasonable jury applying the law to all the relevant considerations could reasonably have awarded and is not disproportionate to the injury suffered by the Respondent". The press groups publishing the Sunday Independent lodged an application before the Strasbourg Court, complaining that the exceptional damages award and the absence of adequate safeguards against disproportionate awards violated their rights under Article 10 of the Convention (freedom of expression). The application was also supported by some other Irish media groups and by the National Union of Journalists (NUJ).

Taking its judgment of 13 July 1995 in the case of Tolstoy Miloslavsky v. U.K. as a point of reference, the Court is of the opinion that the present jury award was sufficiently unusual as to require a review by the Court of the adequacy and effectiveness of the domestic safeguards against disproportionate awards. According to the Court, unpredictably large damages awards in libel cases are considered capable of having a chilling effect on the press and therefore require the most careful scrutiny. The Strasbourg Court however, refer-

ring to the judgment of the Irish Supreme Court upholding and legitimising the award of damages, comes to the conclusion, by 6 votes to 1, that there has been no violation of the right of freedom of expression in this case: "Having regard to the particular circumstances of the present case, notably the measure of appellate control, and the margin of appreciation accorded to a State in this context, the Court does not find that it has been demonstrated that there were ineffective or inadequate safeguards against a disproportionate award of the jury in the present case". In his dissenting opinion judge Cabral Barreto of Portugal argues that the amount of damages which the publishing group of the Sunday Independent was ordered to pay was so high "that the reasonable relationship of proportionality between the interference and the legitimate aim pursued was not observed". The 6 judges of the majority however came to the conclusion that there has not been a violation of Article 10 of the Convention. ■

Dirk Voorhoof
Media Law Section of the Communication Sciences Department, Ghent University, Belgium

● Judgment by the European Court of Human Rights (Third Section), case of Independent News and Media and Independent Newspapers Ireland Limited v. Ireland, Application no. 55120/00 of 16 June 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9237

EN

Parliamentary Assembly: Recommendation on Media and Terrorism

On 20 June 2005, the Parliamentary Assembly of the Council of Europe (PACE) adopted Recommendation 1706 (2005), entitled "Media and terrorism". The Recommendation builds on PACE Resolution 1271 (2002) and Recommendation 1550 (2002), both entitled "Combating terrorism and respect for human rights", and refers explicitly to the Committee of Ministers' Declaration on freedom of expression and information in the media in the context of the fight against terrorism (see IRIS 2005-3: 3).

Recommendation 1706 (2005) stresses that the right to freedom of expression and information encompasses the public's right to be informed on matters of public concern, including terrorist acts and threats, as well as the responses which such acts and threats elicit from States authorities and international organisations. It recalls the responsibility of the media: to help to prevent the creation of spirals of fear; to contribute to informed public debate on terrorism, the suffering it causes and the context in which it takes place, and to be duly respectful towards "the privacy and human dignity of victims of terrorist acts and their families".

It invites (bodies of) media professionals to: develop codes of conduct for dealing with terrorism; organise special training programmes to increase awareness within the sector of the need for sensitive reporting on terrorism; ensure greater cooperation in order to avoid rat races for sensationalist coverage of terrorism; "refrain from disseminating shocking pictures or images of terrorist acts which violate the privacy and human dignity of victims or contribute to the terrorising effect of such acts on the public as well as on the victims and their families", and avoid fanning the flames of underlying societal tensions in their reporting and commentary.

PACE recommends that the Committee of Ministers ask Council of Europe Member and Observer States to regularly inform the public and the media about governmental anti-terrorist strategies and measures. Similarly, PACE calls for the Committee of Ministers to impress on States that they should not use the pretext of combating terrorism to prohibit or unduly restrict "the provision of information and opinions in the media about terrorism as well as about the reaction by state authorities to terrorist acts and threats".

The Recommendation concludes with PACE asking the Committee of Ministers to: "monitor the treatment of terrorism in European media", paying particular attention to the aforementioned Committee of Ministers' Declaration; "prepare, under the guidance and in close co-operation with" media bodies, UNESCO and other organisations, a handbook for journalistic reporting on terrorism and violence, and "initiate work towards an additional protocol to the Convention on Cyber Crime setting up a framework for security co-operation between member and observer states for the prevention of cyber terrorism, in the form of large-scale attacks on computer systems and through computer systems which threaten national security, public safety or the economic well-being of a state".

The Recommendation is based on a longer, identically-titled report by the PACE Committee on Culture, Science and Education. ■

Tarlach McGonagle
Institute for Information Law (IViR) University of Amsterdam

● Media and terrorism, Recommendation 1706 (2005), Parliamentary Assembly of the Council of Europe, 20 June 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9763

● Media and terrorism, Report of the Committee on Culture, Science and Education (Rapporteur: Mr. Josef Jarab), Parliamentary Assembly of the Council of Europe, 20 May 2005, Doc. 10557, available at: http://merlin.obs.coe.int/redirect.php?id=9765

EN-FR

IRIS LEGAL OBSERVATIONS
OF THE EUROPEAN AUDIOVISUAL OBSERVATORY

European Commission against Racism and Intolerance: Statements with Relevance for Freedom of Expression

Tarlach McGonagle
Institute for Information Law (IViR)
University of Amsterdam

Two documents adopted recently by the European Commission against Racism and Intolerance (ECRI) touch on issues relating to the right to freedom of expression: its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse and the annual report on its activities for 2004.

In its Declaration, ECRI condemns "the use of racist, antisemitic and xenophobic elements in political discourse", pointing out the ethical unacceptability of such discourse, as well as its harmful consequences. ECRI is "alarmed" at the impact of this type of discourse on public opinion as it often projects stereotypes, prejudices and distorted images of particular groups and religions. Furthermore, ECRI is "deeply concerned that the use of racist, antisemitic and xenophobic political discourse is no longer confined to extremist political parties, but is increasingly infecting mainstream political parties, at the risk of legitimising and trivialising this type of discourse".

The Declaration proposes a number of responses to racist, anti-Semitic and xenophobic political discourse, including: the adoption of self-regulatory measures by political parties or national parliaments; the signature and implementation by political parties of the Charter of European Political Parties for a non-racist society (1998); the effective implementation of criminal law provisions against racist offences and racial discrimination; the "adoption and implementation of provisions penalising the leadership of any group that promotes racism, as well as support for such groups and participation in their activities", and the "establishment of an obligation to suppress public financing of organisations which promote racism, including public financing of political parties" (for further analysis of many of these issues, specifically from a freedom of expression perspective, see: Political Debate and the Role of the Media – The Fragility of Free Speech (IRIS Special, 2004)).

The Annual Report on ECRI's activities for 2004 has a broad focus and it pays relatively little attention to media-related issues. The most relevant provision reads: "Internet continues to be used for the dissemination of racist, xenophobic and antisemitic material. ECRI deplores the current extent of differences between States in dealing with this phenomenon. It hopes that the Convention on Cybercrime and its Additional Protocol will rapidly enter into force and that international co-operation will improve, enabling a more effective fight against racism and xenophobia on the internet" (p. 9). It should be noted, however, that the Convention on Cybercrime entered into force on 1 July 2004, whereas the Additional Protocol will do so upon ratification by five States (to date, it has only been ratified by four States: Albania, Cyprus, Denmark and Slovenia). ■

- **Declaration on the use of racist, antisemitic and xenophobic elements in political discourse, European Commission against Racism and Intolerance, 17 March 2005, available at:**
http://merlin.obs.coe.int/redirect.php?id=9770
EN

- **Annual Report on ECRI's Activities covering the period from 1 January to 31 December 2004, European Commission against Racism and Intolerance, June 2005, Doc. No. CRI (2005) 36, available at:**
http://merlin.obs.coe.int/redirect.php?id=9771
EN-FR

- **Charter of European Political Parties for a non-racist society, 1998, available at:**
http://merlin.obs.coe.int/redirect.php?id=9773
EN

Venice Commission: Opinion on Freedom of Expression and Media Pluralism in Italy

At its 63rd Plenary Session on 10-11 June 2005, the European Commission for Democracy through Law (Venice Commission) of the Council of Europe adopted its Opinion No. 309/2004 on the compatibility of the Laws "Gasparri" and "Frattini" of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media. The Venice Commission had been requested to provide such an opinion by Resolution 1387 (2004), "Monopolisation of the electronic media and possible abuse of power in Italy", of the Parliamentary Assembly of the Council of Europe (PACE) (see IRIS 2004-7: 3).

The analysis contained in the Opinion is very detailed and a mere overview of its main conclusions is provided here. First, however, it is recalled that the full title of the Gasparri Law is "Principles governing the broadcasting system and RAI-Radiotelevisione Italiana SpA, and the authority delegated to the Government to issue the consolidated legislation on television broadcasting" (see IRIS 2004-6: 12). The Frattini Law, for its part, is entitled, "Rules for the resolution of conflicts of interest" (see IRIS 2004-10: 14).

The Gasparri Law

The Venice Commission subscribes to the scepticism already aired by the PACE, *viz*. that "the mere increase in the number of channels which will be brought about by digital television is not sufficient in itself to guarantee media pluralism" (para. 264). It finds that the threshold of 20% of the channels "is not a clear indicator of market share" and that it would be more accurate to use it in conjunction with an audience share indicator (for example) (para.

265). It also considers that another threshold provided for in the Law – 20% of the revenue in the Integrated Communications Systems (SIC) – should not replace the "relevant market" criterion. The Commission reasons that the replacement of the "relevant market" criterion by the SIC criterion would "dilute the effectiveness of the instruments aimed at protecting pluralism" and could make it possible for "an individual company to enjoy extremely high degrees of revenue shares in individual markets, whilst at the same time remaining below the 20% threshold for the whole sector" (para. 266). It therefore argues against such a change of criteria, noting in passing that the previously-used "relevant market" criterion still holds sway in other European countries (para. 268).

The Commission gives a guarded welcome to "the provisions on prohibition of discrimination between independent content providers and those content providers which are referable to either linked or controlled companies and the Broadcasting Authority (AGCOM) decisions guaranteeing to a certain extent access to networks for independent content providers" (para. 269). If properly implemented, these measures will enhance internal pluralism, according to the Commission.

As for the Law's provisions on public service broadcasting, the Commission opposes the extension of the role of the Parliamentary Commission on Radio and Television to "programme matters and the manner of developing service contracts" (para. 271). It considers the provision entitling the Presidency of the Council of Ministers to obtain free airtime "on request" to be couched in overly vague terms (para. 272). While acknowledging that the privatisation of the RAI "should lead to a lesser degree of politicisation of the public broadcaster", the Venice Commission "notes that change at RAI will allow for government control over the public broadcaster for an unforeseeable period of time" (para. 273). It is apprehensive about the implications of such governmental control for the current concentration of media ownership in Italy.

Finally, as regards the Gasparri Law, the Commission voices its approval for provisions that protect the print media by allocating subsidies to political newspapers and by requiring that "part of the public budget for the purchase of advertising space for institutional communication by means of mass communication must be used for daily newspapers and magazines" (para. 274).

The Frattini Law

The Commission faults the Frattini Law for certain *lacunae* in its scope of application (para. 275) and for failing to provide for "sufficient 'preventive' measures for resolving a potential conflict of interest" (para. 276). Furthermore, it points out that "Government members who find themselves in a situation of conflict of interest must inform the competent Authorities, but are put under no other obligation to remove such conflict of interest" (para. 277).

The Commission observes that the Frattini Law "only declares a general incompatibility between the management of a company and public office, not between ownership as such and public office", which is identified as a particularly pressing problem in Italy at the moment (para. 278). The Commission considers the burden of proof required by the Law to be "a very heavy one" which is "difficult to apply in practice" (para. 279). By way of explanation: the Law sets out to address acts or omissions of a government member which have "a specific, preferential effect on the assets of the office holder or of his spouse or relatives up to the second degree, or of companies or other undertakings controlled by them to the detriment of the public interest". The Commission's concern about the requisite burden of proof stems from the need for the effect to be "specific" and "to the detriment of the public interest" (para. 279). It also expresses its concern about the adequacy of the sanctions provided for in the Law and in particular, the effectiveness of relevant political sanctions (para. 280).

All things considered, the Commission draws the conclusion that "the Frattini Law is unlikely to have any meaningful impact on the present situation in Italy" and it consequently "encourages the Italian authorities to continue to study this matter with a view to finding an appropriate solution" (para. 282). ■

Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam

● Opinion on the compatibility of the Laws "Gasparri" and "Frattini" of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media (Opinion No. 309/2004), European Commission for Democracy through Law (Venice Commission), 13 June 2005, Doc. No. CDL-AD (2005) 017, available at:
http://merlin.obs.coe.int/redirect.php?id=9791
EN-FR

EUROPEAN UNION

European Commission: Final Phase in Consultations on EU Audiovisual Content Modernization

In its bid to modernise the rules governing Europe's media industry, the Commission deployed plans a few years ago to revise the Television without Frontiers Directive. In order to do so effectively, the Commission initiated consultations in 2003 (see IRIS 2004-1: 6 and IRIS 2003-2: 5) which drew remarks and analyses from experts and stakeholders on future EU rules for audiovisual content.

The findings that emerged from these consultations are that the European audiovisual sector is drastically changing as a result of technological innovations which make media convergence more of a reality. This entails that traditional roles will interchange as telecom providers will soon be able to deliver broadcasting services while content providers gain access to the communications market.

This is precisely why the Commission has made it a priority to modernise the legislative framework for this industry. Rules must keep up with technology and the stated aim is to arm the sector with the most "modern and flexible [rules] in the world" in order to foster competition and increase consumer choice without, however, sacrificing objectives of general public interest such as cultural diversity and protection of minors.

The entire consultation process has been grouped and published in five issues papers which lay out the discussions held so far on the following topics:

- Towards a modern set of rules for audiovisual content: scope and jurisdictional matters;
- Commercial communications;
- Protection of minors and human dignity, right of reply;
- Cultural diversity;
- Rights to information and short extracts.

These papers are available for the public to make observations and are meant to prepare for a major audiovisual conference co-organised with the UK presidency in Liverpool from 20-22 September 2005. Once comments from interested parties and conclusions from the Liverpool Conference have been compiled, the Commission will propose a new set of EU rules on audiovisual content by the end of 2005.

Thus ends the process of modernising the European media framework as part of a larger endeavour, dubbed the "i2010 initiative" (see IRIS 2005-7: 5), designed to keep European information society and media industries up to par. By covering any delivery platform (broadcast, high-speed broadband, third generation mobiles…) and linear or non-linear audiovisual content services, the rules now in the making strive to accomplish that mission for the audiovisual sector. ■

Mara Rossini
Institute for Information Law (IViR)
University of Amsterdam

● **Issues Papers for the Liverpool Audiovisual Conference, available at:**
http://merlin.obs.coe.int/redirect.php?id=9788
DE-EN-FR

European Commission: Proposals for European Criminal Law Provisions against Infringements of Intellectual Property Rights

In April of 2004, the Directive on the enforcement of intellectual property rights was added to the European arsenal of provisions meant to protect rightsholders. Its main objective was to harmonise legislation in this very field thereby countering infringements thriving on the differences of approach in the Member States (see IRIS 2003–3: 8, IRIS 2004-4: 5 and IRIS 2005-6: 4). On 12 July 2005, the Commission took the next step in its fight against piracy and counterfeiting by introducing proposals for a directive and for a framework decision intended to align national criminal law and improve European cooperation in this area.

These proposals for new legislative instruments should enable Member Sates to form a collective front against the ever-increasing assaults on intellectual property rights by criminal organisations. The issue has become a pressing matter as counterfeiting and piracy activities are sapping innovation and undermining several sectors of the industry. The economic perspective, however, is not the only one preoccupying the Commission as the goods manufactured by counterfeiters could potentially pose a serious danger to public health and safety.

Thus far, infringements of intellectual property rights have carried only light penalties; the proposed measures are meant to change this state of affairs. They apply to all types of infringements and especially target intentional infringements perpetrated on a commercial scale as well as attempting, aiding, abetting or inciting such activities. As for the sanctions, a minimum of four years' incarceration and fines of EUR 100,000 to EUR 300,000 are suggested where criminal organisations or serious risks to public health and safety are involved. Member States may choose to apply harsher penalties if deemed necessary.

Aside from these proposed legal instruments, the Commission encourages campaigning on the part of national and regional authorities - as well as other interested parties - to raise not only industrial players' awareness but also that of the public. This would greatly enhance the efforts made to win the ongoing war against counterfeiters and pirates. ■

Mara Rossini
Institute for Information Law (IViR)
University of Amsterdam

● **"Counterfeiting and piracy: the Commission proposes European Criminal-law provisions to combat infringements of intellectual property rights", press release of 12 July 2005 available at:**
http://merlin.obs.coe.int/redirect.php?id=9782
DE-EN-FR-IT

● **Proposal for a European Parliament and Council Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights / Proposal for a Council Framework Decision to strengthen the criminal law framework to combat intellectual property offences, available at:**
http://merlin.obs.coe.int/redirect.php?id=9785
DE-EN-FR

European Commission: Study on a Community Initiative on the Cross-border Collective Management of Copyright

On 7 July 2005, the European Commission released the staff working document "study on a community initiative on the cross border collective management of copyright".

The current legislation of obtaining rights in each and every EU Member State at the local collecting society leads to difficulties for Internet-based services to start their business and to provide services such as simulcasting, webcasting, streaming, downloading or an online on-demand service. Also, in comparison to the situation in the United States, the licensing of online music in the EU is far behind. Reasons for this might be the restrictions with regard to cross-border licensing and cross-border distribution of royalties, as well as the circumstance that the Santiago and the BIEM/Barcelona representation agreements oblige rightsholders to join the collecting society in their own Member State.

The Commission considers three options to improve the situation. Option 1 is to leave the current state of affairs unchanged. Option 2 is to suggest ways in which cross-border cooperation between national collecting societies in the 25 Member States can be improved. Option 3 is to give rightsholders the choice to authorise one single collecting society to license and monitor all the different uses made of their works across the entire EU.

Although the Commission analyses the three options on different aspects (for instance legal certainty, transparency, innovation and growth, competition and the impact on specific groups), the most important consequence of following options 1 and 2 is that rightsholders are still obliged to join the collecting society of their own Member State and do not have any choice at all. Option 3 though, would give rightsholders the opportunity to authorise a collecting society of their choice to manage their works across the entire EU. The competition between collecting societies would create a competitive environment for cross-border management of copyright in which collecting societies would provide better services to rightsholders, for instance the improvement of cross-border royalty payments and the specialisation in genre-specific repertoires.

In order to realise this objective, the Commission introduces a series of core principles that EU Member States should adhere to:

- The rightsholders' choice of a single EU rights manager should be exercised irrespective of residence or nationality of either the rights manager or the rightsholder;
- The collecting society's online repertoire and territorial licensing power would not derive from reciprocal agreements but from rightsholders concluding contractual agreements directly with a society of their choice;
- The individual membership contract will allow the rightsholder to define precisely the categories of rights administered and the territorial scope of the society's authority;
- Individual membership contracts create a fiduciary duty between the collecting society and its members, obliging the former to distribute royalties in an equitable manner;
- Membership cannot be refused to individual categories of rightsholders who represent mainly non-domestic interests (e.g., music publishers);
- Non-discrimination as to the service provided and the fiduciary duty of the collective rights manager vis-à-vis its members introduces a culture of transparency and good governance as to how rights are collectively managed across EU borders. ■

Margreet Groenenboom
Institute for Information Law (IViR)
University of Amsterdam

● Study on a community initiative on the cross-border collective management of copyright, available at:
http://merlin.obs.coe.int/redirect.php?id=9778
EN

● "Music copyright: Commission proposes reform on Internet licensing", press release of 7July 2005, available at:
http://merlin.obs.coe.int/redirect.php?id=9779
EN-FR-DE

European Commission: Consultation on Collecting Societies' Commitments for Online Music Licensing

On 29 April 2004, the European Commission issued a Statement of Objections targeting restrictive practices amongst collecting societies when dealing with the distribution of online music. This Statement formed the prelude to the current public consultation being held on the commitments outlining the concessions some of these societies have since formulated vis-à-vis the Commission.

So far, the Dutch and Belgian collecting societies Buma and Sabam have pledged to refrain from engaging in contractual agreements containing a so-called "economic residency clause". By preventing users from obtaining EEA-wide licenses from societies other than their national collecting societies, this clause fosters territorial exclusivity which can be read as being contrary to the provisions contained in Art.81 of the EC treaty and hampers the development of a single market for the licensing of online music.

The Commission, however, does support a "one-stop shop" EEA-wide licensing system for legitimate online music services which include the music repertoires of all societies as laid down in the Santiago agreement. This agreement was notified to the Commission in April 2001 by 16 major organisations and forms the basis for the cross-licensing arrangements containing *inter alia* the "economic residency clause" which is now being targeted. The process of eliciting commitments from other societies having received the Statement of Objections continues and will be published in the Official Journal enabling interested third parties to make their observations.

Collecting societies have an important role to fulfil as they represent rightsholders not only by granting licenses to users and subsequently collecting royalties but also by distributing these royalties to authors and monitoring the use made of their works so as to effectively enforce their rights. Their commitments are therefore valuable, all the more so since they will have a binding effect after the Commission has adopted a formal decision once all proposals have been thoroughly examined and exposed to third parties' comments. ■

Mara Rossini
Institute for Information Law (IViR)
University of Amsterdam

● **"Competition: Commission consults on BUMA and SABAM's commitments for the licensing of online music", press release available at: http://merlin.obs.coe.int/redirect.php?id=9767**

DE-EN-FR

NATIONAL

AL – Developments in Electronic Media Market

The *Keshilli Kombetar I Radiove dhe Televizioneve* (National Council for Radio and Television), which is responsible for the licensing of the private radio and television stations in the country, decided in July 2005 to announce a competition for a new license on national private terrestrial analogue television. The decision followed the rejection of a bill on the digital terrestrial and satellite television in Albania by the Parliament in May 2005 (see IRIS 2005-7: 8). Thus the country has no approved action plan for the switch-over to digital broadcasting.

There are already two national private analogue broadcasters licensed in Albania. But they cover only 50 percent of the territory of the country, despite the legal obligation to cover not less than 90 percent of the territory and 90 percent of the population within six years of start of the licensed activity.

Since 2004 there are also two unlicensed private broadcasting companies, (Digitalb and Sat +), each of which broadcast more than 20 programs by terrestrial and satellite digital technology.

The latest decision of the National Council of Radio and Television for the licensing of a new national analog terrestrial television, in these circumstances, does not seem to establish more order in the electronic media market of the country. ■

Hamdi Jupe
Albanian Parliament

● **Public notice of the *Keshilli Kombetar I Radios dhe Televisioneve* (National Council of Radio and Television of the Republic of Albania), dated 25 July 2005, on the competition for a new license for national terrestrial analog television in Albania**

SQ

AU – Federal Court Rules against Kazaa

On 5 September 2005, the Federal Court of Australia delivered a judgment declaring that Sharman Networks Ltd, the provider of the Kazaa peer to peer file-sharing software, infringed the copyright of major recording companies by authorising users of Kazaa to infringe the applicants' copyright in their sound recordings.

According to Section 101 of the Australian Copyright Act, copyright is infringed by a person who, not being the owner of the copyright and without the licence of the copyright owner, authorises another person to do in Australia an infringing act. In determining, whether or not a person has authorised the doing in Australia of an infringing act without the licence of the owner of the copyright, the matters that must be taken into account include the following:

(a) the extent (if any) of the person's power to prevent the doing of the act concerned;
(b) the nature of any relationship existing between the person and the person who did the act concerned;
(c) whether the person took any other reasonable steps to prevent or avoid the doing of the act, including whether the person complied with any relevant industry codes of practice.

The court found that respondents had long known that the Kazaa system was widely used for the sharing of copyrighted files and did not take any action to implement technical measures that would enable them to at least curtail the sharing of copyright files. On top of that, respondents encouraged visitors to defy the record companies by ignoring copyright constraints. The court rejected respondents' defending arguments that the applicants could eliminate (or at least substantially reduce) infringe-

ment of their copyrights if they were willing to make copyrighted works available on a licensed basis for a fee. Also the court did not take into consideration that it would have been possible for the applicants to have made their compact discs less vulnerable to being ripped by releasing them with copy-protection technology.

Accordingly, the court issued an injunction ordering that respondents be restrained, by themselves, their servants or agents, from authorising Kazaa users in Australia to make copies of copyrighted sound recordings or communicate those recordings to the public without the licence of the relevant copyright owner. However, bearing in mind the possibility that the respondents probably could not totally prevent copyright infringement by users, the court offered an opportunity for the respondents to modify the Kazaa software in a targeted way, so as to protect the applicants' copyright interests (as far as possible) but without unnecessarily intruding on others' freedom of speech and communication. Therefore, the provision of software to new users is not to be regarded as a contravention if that software is first modified in a way that ensures either of the following situations:

- the software program received by all new users of the Kazaa file-sharing system contains non-optional key-word filter technology that excludes from the displayed file search results all works identified (by titles, composers' or performers' names or otherwise) in such lists of their copyright works as may be provided, and periodically updated, by any of the applicants; and all future versions of the Kazaa file-sharing system contain the said filter technology; and maximum pressure is placed on existing users, by the use of dialogue boxes on the Kazaa website, to upgrade their existing Kazaa software to a new version containing the said filter technology; or
- that the TopSearch component of the Kazaa software will provide, in answer to a request for a work identified in any such list, search results that are limited to licensed works and warnings against copyright infringement and that will exclude provision of a copy of any such identified work.

These modifications will have to be agreed between the infringing respondents and the applicants or be approved by the Court. ■

Francisco Javier Cabrera Blázquez
European Audiovisual Observatory

● Federal Court of Australia, Universal Music Australia Pty Ltd v Sharman License Holdings Ltd [2005] FCA 1242, 5 September 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9797

EN

CH – Public Television Renews its Support for the Audiovisual Industry

The Swiss radio and television company *Société Suisse de Radiodiffusion et Télévision – SRG SSR idée suisse* (SSR) and six associations in the Swiss cinematographic and audiovisual sector have renewed the Audiovisual Pact for a further three years (from 2006 to 2008). Concluded for the first time in 1996, the Audiovisual Pact is intended to strengthen the collaboration between SSR and the audiovisual industry and to ensure continuity in production (see IRIS 2003-7: 13). In addition, it consolidates the financial support granted to independent producers by the Swiss Confederation under the federal Act on cinematographic culture and production (Cinema Act). Since 1996, the Audiovisual Pact's three-year budget has been increased from 34.5 to 57.9 million Swiss francs (CHF); these funds are allocated to fictional films, documentaries, animated films and short films.

Signed on 8 August 2005 during the Locarno International Film Festival, the 2006-2008 Audiovisual Pact essentially reiterates the provisions of the previous agreement. The few changes made in 2003 and 2004 have been confirmed and incorporated into the new agreement. SSR's annual contribution amounts to a total of CHF 19.3 million, an increase of 14.8% over the previous agreement. Most of this sum will be used for cinematographic production (CHF 7.8 million) and the production of films for television (CHF 7.9 million). A sum of CHF 300 000 is also earmarked for animated films. Lastly, SSR will allocate CHF 3.3 million for the "broadcasting success" bonus (SSR reserves the right to alter this amount in 2006, however). "Broadcasting success" is an investment fund that promotes the showing of Swiss films on the SSR television channels and ensures a degree of continuity in the work of independent producers. The bonus paid by SSR must be re-invested in the production or development of films for the cinema or television. The sums invested by SSR under the Audiovisual Pact are paid to independent producers on the basis of co-production contracts concluded with its TV enterprise units: Schweizer Fernsehen (SF-DRS), Télévision Suisse Romande (TSR) and Radiotelevisione svizzera di lingua italiana (RTSI). The terms of each contract are formulated on the basis of model contracts, bearing in mind, *inter alia*, the production's genre and budget, the financial commitment made by SSR and the markets to be exploited. The projects submitted by producers must be of a certain quality, attractive and economically viable. In exchange for its financial contribution, the SSR acquires a co-production share in the work and television rights in Switzerland for a period of fifteen years. ■

Patrice Aubry
Télévision Suisse Romande (Geneva)

● 2006-2008 Audiovisual Pact between *Société Suisse de Radiodiffusion et Télévision (SRG SSR idée suisse)* and the body of independent producers, available at: http://merlin.obs.coe.int/redirect.php?id=9753

FR

CH – Outcome of Consultation on Revision of Copyright Law

The Swiss Federal Council (government) has circulated a preliminary draft revision of the federal Act on copyright and neighbouring rights among the relevant circles for consultation. This revision is intended primarily to adapt copyright law to the new technologies for communication and digital transmission (see IRIS 2004-10: 6). It should also enable Switzerland to ratify the "Internet treaties" drawn up by the World Intellectual Property Organisation (WIPO) – the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

By and large, the proposal to ratify the Internet treaties has been favourably received. However, the provisions concerning the prohibition on circumventing technical protection measures (mechanisms for locking and to prevent copying) are still highly controversial, owing to the divergent interests of artists, users and the cultural economy. Some of the circles consulted consider that these provisions unduly protect the interests of the holders of rights, and are unfair to users. Other organisations, however, consider that the measures intended to improve copyright protection are inadequate to deal effectively with digital piracy. In addition, some organisations fear the improper use of technical protection measures to the detriment of consumers.

The provisions governing the exception for private use are also the subject of considerable debate between the proponents of a broad interpretation of private use and those seeking a more restrictive definition. In particular, the issue of whether or not to allow the reproduction of a work originating from an illegal source (downloading from exchange websites) is controversial. As things stand, downloading for private purposes will still be allowed, but making music and films available on exchange sites for other users to download will be prohibited.

The provisions enabling people with disabilities to access works in a suitable form have attracted considerable support. However, users' organisations reject the introduction of a non-pecuniary right for performing artists. They consider that the latter are sufficiently protected by civil law rules on privacy protection. Lastly, opinions differ as to whether the transmission of programmes via the Internet should be classed as conventional broadcasting (and consequently made subject to the right to remuneration exercised by collecting societies) or whether it comes within the new exclusive right of making available.

The Federal Council has instructed the Federal Justice and Police Department to draw up a draft revision of the copyright Act by early 2006, taking into account the outcome of the consultation procedure. ■

Patrice Aubry
Télévision Suisse Romande (Geneva)

● **Report on the Outcome of the Consultation Procedure concerning the Revision of Part of the Federal Act on Copyright and Neighbouring Rights. Available at:**
http://merlin.obs.coe.int/redirect.php?id=9754 (DE)
http://merlin.obs.coe.int/redirect.php?id=9755 (FR)

FR-DE-IT

CS – Amendments to the Law on Broadcasting Proposed

One year after the last amendment of the 2002 Broadcasting Act (see IRIS 2002-8: 11 and IRIS 2004-8: 6), the Government of Serbia adopted the proposal for new amendments and passed it to the Parliament.

The proposed amendments deal with several issues, the first being the length of term of the Council members (see IRIS 2005-4: 7).

Namely, the length of term of the first convocation of the Council, now determined at two years for three members, four years for another three and six years for the last three members (each three to be decided by draw), should be changed to four, five and six years, whereas the length depends on the nominator, not the draw. Apart from that, successive terms for Council members should be allowed.

Another issue dealt with in the amendments is the revocation of the veto power now vested in the Council member from the region of Vojvodina. When the Parliament changed the 2002 Broadcasting Act in 2004, the number of Council members nominated from the province Vojvodina was reduced. As a compensation the veto power by the remaining member for all Council decisions affecting Vojvodina was introduced. Now the Government proposes that this veto power should be revoked.

The proposed amendments also envisage the extension of the deadline for the privatization of local media now controlled by municipalities and towns, as well as the extension of the deadline for the transformation of the state radio-television station RTS into a public service broadcaster.

On top of that, the amendments provide for the right to collect the licence fee for RTS even before the transformation. Furthermore, the fines for administrative offences provided by the law have been significantly increased.

Public reactions to the proposed amendments have not been supportive.

Partly there has been a call for abandonning the proposed amendments, because they diminished the institutional independence of the Council by changing the length of term and defining which Council member shall have a longer, and which one a shorter term of office, based upon the proposer of each respective member (and giving the state nominees

Miloš Živković
Belgrade University School of Law
Živković& Samardžić Law offices

the longest tenure of 6 years). The decision to allow the collection of the licence fee even before the transformation of RTS into a public service broadcaster has also been broadly criticised by the public. It has been argued that the management of the state TV was directly appointed by the Government and thus dependent upon its policies, and a licence fee, as a vehicle of public broadcasters' independence from the Government, could not fulfil its purpose in these circumstances. ■

CZ – Advertising on Public-service Television Restricted

Jan Fučík
Broadcasting Council Prague

The Czech Republic's Parliament has approved a new Act on television and radio licence fees, which will result in their being increased. In return, Czech public-service television will have to give up almost all its revenue from advertising.

The monthly television licence fee is currently CZK 75 (EUR 2.50). It is to rise initially to CZK 100, then from 1 January 2007 to CZK 120, and from 1 January 2008 to CZK 135. A radio licence currently costs CZK 37 per month and this will increase to CZK 45. Advertising on Czech radio is already subject to restrictions.

Advertising on public-service television may not currently occupy more than a fixed percentage of daily transmission time. Advertising including teleshopping can currently account for up to 10%. Between 7 pm and 10 pm (ie in prime time) advertising is restricted to six minutes per hour. From 1 January 2007, advertising excluding teleshopping will be allowed to occupy only 0.5% of daily transmission time; the permitted proportion including teleshopping will be 5%. From 1 January 2008 advertising on public-service television will be permitted only in connection with major cultural or sports events (before the start, after the event and during breaks), where acquisition of the right to broadcast the event depends on a commitment to carry the advertising.

A tougher approach is to be taken on the collection of licence fees. All individuals or legal entities with a connection to the electricity mains will be liable to pay, although it will be possible to seek exemption by declaring that there is no television or radio on the premises. A heavy surcharge will be imposed on those who conceal a television or radio, or who default on all or part of the licence fee. The revenue currently derived by public-service broadcasters from television advertising shall in future be spent on the development of digital television. ■

● ***Zákon ze dne ... 2005 o rozhlasových a televizních poplatcích a o změně některých zákonů*** **(Television and Radio Licence Fees Act of 2005)**
CS

DE – Staged Attack on a News Programme Is a Criminal Offence

Thorsten Ader
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 7 June 2005 the District Court in Karlsruhe fined a student for faking an attack on the news programme *Tagesschau*.

The student, who attends a design college, was attempting to prove that the media reinforces terror. His project involved filming a fictitious news programme, using a set that copied the *Tagesschau* studio. In the course of the programme the female newsreader was attacked by an armed individual who made various demands, including that she read out texts about "evil" in the world. The "attacker" proceeded to threaten the newsreader, demanding that she carry out a telephone poll and that certain images be screened. The film lasted around half an hour, ending with a notice to viewers explaining that it had been a fictionalised *Tagesschau*.

The accused had screened the deliberately authentic-seeming programme in several pubs at the normal *Tagesschau* transmission time and had filmed viewers' reactions to it. Some people had clearly been shocked by what they had regarded as actual events.

The District Court found that the accused had breached the peace and feigned an accident and was therefore guilty of an offence. The court had considered the defence argument that the actions of the accused were covered by the provision in Article 5(3) of the Basic Law (the German Constitution) protecting freedom of artistic expression, and that there was therefore no question of an offence having been committed. It ruled that the unconditional protection of artistic freedom as a fundamental right was subject to what it termed inherent limitations, and that it could therefore be restricted under criminal law. Artistic freedom was not an absolute value in itself, but rather one of a number of basic rights. People were entitled to live "free of art" and could not be compelled to take notice of public artworks. This meant that, other than in special venues such as museums, they had to be notified that they were being exposed to an artwork or artistic activity. By contrast, the accused had deliberately withheld from the viewers the fact that what appeared to be a violent attack on the news programme had in fact been art. The court found that, at a time when terrorism had become a consideration in everyday life, this was unacceptable. ■

● **Decision by the Karlsruhe District Court, 7 June 2005**
DE

DE – Court Upholds Blocking Orders Imposed on Access Providers

Thorsten Ader
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a decision of 10 May 2005, the Dusseldorf *Verwaltungsgericht* (administrative court) dismissed the action brought by Internet access providers against "blocking orders" imposed by the regional government in Dusseldorf that prevented access to two websites with radical right-wing content, including material that glorified or played down the holocaust. The content providers or service/host providers of both websites are registered in the USA. Insofar as action taken by the German authorities against these providers in the USA was not deemed to stand much chance of success, the case brought by the applicant against the access provider, who is based in Northrhine-Westphalia was declared admissible. The Court held that the blocking of access to the corresponding websites, as requested by the applicant, was both technically possible and also reasonable. Insofar as, in the Court's view, the blocking orders were permanent administrative acts, it also had to deal with a change on the side of the applicant as a result of the entry into force on 1 April 2003 of the interstate treaty for the protection of minors in the media. It found, however, that the legality of the blocking orders was not affected in any way by the transfer of responsibility from the regional government in Dusseldorf to the Media Office for Northrhine-Westphalia, and that also from a substantive point of view they were still lawful.

The decision was therefore extensively the same as that handed down by the *Verwaltungsgericht* (administrative court) in Cologne on 3 March 2005 (Az. 6 K 7151/02), which also concerned an action brought by an access provider against a blocking order imposed by the regional government in Dusseldorf. ■

• Decision of the Dusseldorf *Verwaltungsgericht* (administrative court) of 10 May 2005, Az. 27 K 5968/02, available at:
http://merlin.obs.coe.int/redirect.php?id=9777
DE

DE – A New-look Film Support Fund

Kathrin Berger
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 21 July 2005 a joint government and film industry working party presented proposals for a new film support fund.

The fund's declared aims are to make the German film industry more effective and competitive and to make up the shortfall in German film production financing. These aims will be realised through establishment of a venture capital fund.

New film-financing arrangements were needed, partly because it is planned to do away with the Media Fund which previously supported certain projects.

The new support system will work by granting loans to be repaid under specific conditions.

The amount of a loan may not exceed 20% of total production expenditure in Germany.

In return for its input, the fund will be entitled to a share of the film's earnings. Initially this will take the form of repayment of the loan with interest, but profit-sharing arrangements are also planned. After initial pump-priming by the Federal Government, the fund will be financed as cash flows back from the films it supports (in the form of repayments, interest and, in some cases, profit-sharing). Profitable films will thus help to support other productions.

Both German films and co-productions with German involvement will be eligible for assistance from the fund, subject to certain conditions. These include approval of the project by the film support agency and a requirement that spending on the film within Germany totals at least five times the amount of the loan.

The Government has already given the concept its approval and has made an allocation for it in the 2006 budget. ■

• Concept of a "film support fund", 21 July 2005, available at:
http://merlin.obs.coe.int/redirect.php?id=9775
DE

FR – Cancellation of Investment Approval for the Film *L'ex-femme de ma vie* Invalidated on Appeal

On 21 July 2005 the administrative court of appeal in Paris invalidated the judgment of the administrative tribunal in Paris delivered on 5 November 2004 cancelling the decision of the director of the national film centre (*Centre national de la cinématographie* - CNC) granting the companies ICE 3 and Josy Films investment approval for the film *L'ex-femme de ma vie*.

A few weeks earlier, however, the decision granting approval for the film *Un long dimanche de fiançailles* had been referred to the administrative court of appeal in Paris and the court had upheld its cancellation, thereby depriving its producers of receiving public aid, because the company 2003 Productions was not European (see IRIS 2005-1: 13 and IRIS 2005-7: 13).

In the present case, the Court dismissed the matter of the nationality of the co-producer company, partly owned by an American company. Under Article 33(1) of Decree No. 99-130 of 24 February 1999

on financial support for the film industry, the application for investment approval may only be submitted by the delegated production company. In the case of a co-production, this company acts in the name and on behalf of the other production company or companies. Article 35 of the Decree states that, in the case of a co-production, the investment approval is issued to each of the production companies party to the contract. The Court held that these provisions meant that in the case of a co-production, although only the delegated production company was allowed to submit an application for investment approval in the name and on behalf of the other production company or companies, the approval issued to the delegated co-producer could not be regarded as being issued implicitly and necessarily to all the companies co-producing the work, particularly where some of the co-producer companies had refrained from requesting approval, either because they had no interest in doing so or because they did not meet the statutory conditions for obtaining it, or because they had only become involved in the production after the approval had been issued to the delegated co-producer. Rejecting the notion of global approval, the Court noted that, in the present case, a single decision on investment approval had been issued in respect of the film *L'ex-femme de ma vie* in favour of the companies Josy Films and ICE 3. This decision could not on its own be taken to constitute approval in respect of the company 2003 Productions, a co-producer company in the film, which indeed had not requested approval. This rendered inoperative the argument that, as the company was controlled by the company Warner Bros. France, a 97%-owned subsidiary of the American company Warner Bros., within the meaning of paragraph III of Article L. 233-3 of the Commercial Code and paragraph II(2) of Article 7 of the Decree of 24 February 1999, the CNC's Director General could not issue investment approval in its favour. ■

Philie Marcangelo-Leos
Légipresse

● Administrative court of appeal in Paris (plenary formation), 21 July 2005 – the company 2003 Productions and the CNC; available at: http://merlin.obs.coe.int/redirect.php?id=8885

FR

FR – CSA Recommendation on Minimum Age Marking and Programme Classification

On 7 June 2005 the *Conseil supérieur de l'audiovisuel* (national audiovisual regulatory body - CSA) adopted a recommendation directed at the editors of television services broadcasting on all the networks (terrestrial, cable, satellite, Internet, ADSL, etc) on minimum age marking and programme classification with regard to the protection of minors. The text recalls established principles, states that its main intention is to extend these obligations, until now contained in the agreements, to all channels, particularly those merely requiring declaration because they do not constitute a service providing local information and have an annual budget of less than EUR 150.000. According to these provisions, the editors of television services, whatever the medium or broadcasting mode, must take the necessary precautions to ensure that, "between the hours of 6 am and 10 pm, and more particularly during the time devoted to broadcasts directed at young people, violence, including psychological violence, may not be perceived as continuous, omnipresent or presented as the only solution to a conflict situation". The text uses the current classification of programmes into five categories according to their acceptability as regards the protection of children and young people and applies the corresponding marking and programming conditions. The protection of young people constitutes one of the CSA's fundamental missions, assigned to it by Article 15 of the Act of 30 September 1986 on freedom of communication (see IRIS 2004-1: 12 and IRIS 2005-2: 12). By working in conjunction with the channels it has been possible to determine arrangements for the protection of minors and to include them in the agreements with private channels and in the statutory specifications for public-sector channels. As a result of the change in the legal framework applicable to the various media, and more particularly the introduction of the declaration scheme alongside the scheme for authorisation under an agreement, the CSA produced a recommendation applicable to all editors. On 10 February 2004, the CSA had opted for deliberation and prohibited the broadcasting between 6 am and 10.30 pm of programmes likely to disturb listeners under the age of 16 (see IRIS 2004-4: 9). ■

Philie Marcangelo-Leos
Légipresse

● Recommendation no. 2005-5 of 7 June 2005, addressed to the editors of television services on minimum age marking and programme classification, published in the JORF (official gazette) of 8 July 2005; available at: http://merlin.obs.coe.int/redirect.php?id=9752

FR

FR – Senate Report Analyses Impact of Liberalising Television Advertising

A Senate report examines the impact of the deregulation brought about as a result of the Decree of 7 October 2003 (see IRIS 2003-8: 9 and IRIS 2004-2: 12) concerning television advertising for sectors that were previously prohibited (press, publishing, distribution). Whereas the press is now totally free to advertise, this is not the case for

either publishing, which may only advertise on theme channels, or distribution, which is limited from 1 January 2004 to 1 January 2007 to local channels and to cable and satellite channels. The Government deliberately allowed the distribution sector to advertise in this way in order to give local television a boost, but did it realise the real extent of the measure in terms of pluralism? The report provides the elements of a reply to this question by evaluating more particularly the effects of this continuous process of liberalisation on the pluralism of the media and competition. France appears to be one of the European countries where television advertising is most strictly regulated. The main aim of the regulations is to preserve a sharing of resources from advertising favourable to the viability of the various media. This limited deregulation must necessarily be accompanied in order to compensate for its asymmetrical effects on the media, to the detriment of radio, the regional daily press and public-sector television channels. The report envisages the various possibilities for remedying the phenomenon of advertising concentration and the difficulties created for the press, the public audiovisual sector and television creation. The increase in advertising resources in the public sector creates serious difficulties. Would it therefore be preferable to favour other financial methods such as off-media advertising or television sponsoring, or even to introduce structural measures on audiovisual programming and production? Although this relaxation of the regulations should result in an increase in the quantity of television's revenue from advertising, its impact remains modest, as demonstrated by the rapporteur in noting the under-developed market for media advertising in France, whereas there is a high proportion of "off-media" advertising. Advertising plays such a fundamental role in the financing of the media that it appears to be necessary to continue consideration of the deregulation process, which is far from being complete, particularly as there are a number of projects aimed at relaxing advertising regulations both in France and at the European level. These refer more particularly to those sectors not or only partly affected by the 2003 Decree, namely publishing, the cinema, distribution and wine. ■

Philie Marcangelo-Leos
Légipresse

● Information Report no. 413 of 21 June 2005, assessing the impact of the liberalisation of television advertising and the prospects thus opened up for all the players concerned, drawn up by Mr Philippe Leroy, member of the Senate, on behalf of the Senate's delegation for planning; available at: http://merlin.obs.coe.int/redirect.php?id=9751

● Decree No. 2003-960 of 7 October 2003 amending Decree No. 92-280 of 27 March 1992 adopted for the purpose of application of Articles 27 and 33 of Act No. 86-1067 of 30 September 1986 on freedom of communication and laying down the general principles defining the obligations incumbent on the editors of services regarding advertising, sponsorship and tele-shopping, published in the JORF (official gazette) on 8 October 2003; available at: http://merlin.obs.coe.int/redirect.php?id=8885

FR

GB – Ofcom Revisits Advertising Rules

Ofcom licencees have to be concerned with two types of advertising rules:
- amount, scheduling and presentation rules and
- content rules

As regards the amount, scheduling and presentation rules, according to Section 322 of the Communications Act 2003, Ofcom has the power to give directions to any of its licencees on the following matters: (a) the maximum amount of time to be given to advertisements in any hour or other period; (b) the minimum interval which must elapse between any two periods given over to advertisements; (c) the number of such periods to be allowed in any programme or in any hour or day; and (d) the exclusion of advertisements from a specified part of a licensed service.

Ofcom has now published its "Rules on the Amount and Distribution of Advertising". These give effect to European rules (the Directive on Television Broadcasting 89/552/EEC of 3 October 1989 as amended by Directive 97/36/EC and the Transfrontier Television Convention).

There are three categories of rules:

"(i) those which apply to all services and appear as plain text;

(ii) those which apply only to Channel 3 (ITV and GMTV), Channel 4, Channel 5 and the 'qualifying' (ie: 'simulcast') digital services of these channels. These are identified by (A) after the rule number.

(iii) those which apply only to services other than Channels 3-5 and their 'qualifying' digital services. These are identified by (B) after the rule number".

The reason that there are "A" and "B" rules is that "Ofcom does not have a remit to influence programme quality on services other than Channels 3-5… In the case of Channels 3-5 Ofcom's remit does extend to the quality and value these services provide to viewers and it believes that in some cases more demanding standards than those required by the Directive remain justified".

Provisions deal with the amount of advertising and the calculation of advertising time; the general and particular separation of advertisements and programmes; internal breaks in programmes; recognition of natural breaks; long advertisements; teleshopping and self-promotional channels; advertising on local television channels; parliamentary broadcasts and the amount of advertising on text services. ■

David Goldberg
deeJgee Research Consultancy

● Rules on the amount and distribution of advertising, available at: http://merlin.obs.coe.int/redirect.php?id=9756

EN

GB – Ofcom Sanctions Broadcaster for Breaching Advertising Rules

David Goldberg
Research
deeJgee Consultancy

The Ofcom Content Sanctions Committee recently fined Channel 4 GBP 5.000 and ordered it to broadcast Ofcom's findings in a form and at a time to be determined by Ofcom.

According to the Communications Act 2003, fines may not exceed 5% of "qualifying revenue" and the money is forwarded to the Treasury.

The specific issue was "giving undue prominence to a commercial product" in breach of 8.4 (former ITC Programme Code) - now Section 10.4 of the Broadcast Code.

During May 2004, a videotape item and discussion was broadcast on "the Richard and Judy Show" concerning the dangers of excessive caffeine intake. In July 2004, a correction and apology regarding that item was broadcast, which focused largely on the "caffeine energy drink" Red Bull.

Four viewers complained that the "apology" seemed like an advertisement for the drink and also it contained "expert" and celebrity endorsements. The second item, it was alleged, gave the impression that the programme had come under "external commercial influence", giving the drink undue prominence and endorsements.

The Committee decided that the breach was sufficiently serious to warrant the imposition of a sanction – even though the breach was admitted by Channel 4.

There had been previous breaches of the Code in the same show, though then no sanction was imposed.

However, on this occasion, the Committee took the view that there had been "uncharacteristically poor judgement resulting in what appeared to be, at the very least, a loss of editorial control". ■

- **Ofcom Content Sanctions Committee Decision, August 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9757**
- **The Ofcom Broadcasting Code (effective 25 July 2005), available at: http://merlin.obs.coe.int/redirect.php?id=9758**
- **The ITC Programme Code, available at: http://merlin.obs.coe.int/redirect.php?id=9759**

EN

HR – HRT Sued by RTL

Nives Zvonaric
Council for Electronic Media

The private broadcaster RTL Croatia has filed a claim against HRT public television (HTV) due to a breach of the Law on Croatian Radio Television.

RTL claims that Croatian Radio Television had breached regulations by exceeding the permitted time for advertising 593 times in the period from 1 January 2005 until 31 June 2005. They also state that HTV had broadcast from April until June 2005 12.968 seconds of commercials and made a profit of HRK 13,3 million. RTL has filed a claim at the Commercial court in Zagreb in which they demand compensation.

The Law on Croatian Radio Television stipulates in Article 12 that the duration of commercial messages in each program on HR and HTV may not exceed 9 minutes in one hour of programming. It provides also that two or more commercial messages (advertising block) may be broadcast only between shows. Furthermore, informative, documentary and religious shows, as well as shows for children and shows with a duration of less than 30 minutes should not be interrupted by advertising spots at all and commercial messages must not be broadcast during any broadcast of religious services. HR and HTV have the right to refuse broadcasting of commercial messages due to their content, if it is contrary to program obligations set by law, other regulations and rules regarding advertising and promotion. HR and HTV must not broadcast commercial messages by political parties, religious groups or trade unions. The ban of broadcasting of commercial messages of political parties does not apply during electoral campaigns.

Article 60 of the Act on Electronic Media stipulates that the Council for Electronic Media conducts a monitoring of the application of provisions on program principles and obligations. The same Act provides in article 70 that a legal person that breaches the advertising rules shall be fined HRK 1.000.000.

The Council for Electronic Media has passed, following a public tender, a decision by which it has chosen commercial companies that shall perform the task of program and advertising monitoring in cooperation with the Council. However, one of the companies that was not chosen filed a complaint against the decision of the Council. Therefore, the Council is at the moment unable to perform the monitoring and analysis of the program content of all broadcasters. Since the Association of commercial televisions provided the Council with information on a breach of the legal provisions by HRT, the Council has asked for the records of program content and for a reply from HRT. ■

- **Law on Croatian Radio Television, Official Gazette 25/03, available at: http://merlin.obs.coe.int/redirect.php?id=9658**
- **Law on Electronic Media, Official Gazette 122/03, available at: http://merlin.obs.coe.int/redirect.php?id=9658**

HR

HU – Freedom of Electronic Information Act Adopted

On 4 July 2005 the Parliament of Hungary adopted Act XC. of 2005 on Freedom of Electronic Information. This Act aims at promoting the right of the citizens to have access to information of public interest held by public authorities. For this purpose the Act obliges public institutions to publish continuously on the Internet a significant body of information related to their work in a way that allows citizens to access these data without any identification and free of charge.

The kind of information to be published online is defined in detail by the appendix to the Act. The websites of public institutions shall also contain proper reference to the procedure followed in cases of particular requests for information submitted by individuals.

A set of particular rules of the Act is devoted to promoting transparency of legislation. According to these provisions, draft legal instruments and policy papers shall be published on the website of the relevant ministry or authority responsible for its preparation. All persons shall have the right to comment on these documents. These comments shall be duly summarised and taken into account. A further set of rules provides for the online publication of the minutes of the Parliament and its relevant committees when carrying out legislative tasks.

The online publication of Acts, Decrees and other legal instruments is also a subject of the Act, which prescribes the obligation to publish an electronic version of the *Magyar Közlöny* (the official journal) on the Internet. The Minister of Justice and the Minister heading the Prime Minister's Office shall also publish a database of Hungarian legislation in force. An efficient search engine for this database shall also be established.

Another significant feature of the Act is the obligation to publish online the judgments of the superior courts. Here too an efficient search engine is to be created. Publishing the compendium of these judgements as required by the act falls within the responsibility of the office of the *Országos Igazságszolgáltatási Tanács* (National Council of Justice), the independent administrative background organisation for the Hungarian courts.

The Act on Freedom of Electronic Information enters into force on the 1 January 2006. However, the obligations relating to the publication of judgments will not enter into force until the beginning of 2007. ■

Márk Lengyel
Körmendy-Ékes & Lengyel Consulting

● **Act XC. of 2005. on Freedom of Electronic Information, *Magyar Közlöny 99. szám 2005. július* 14 (Official Journal No. 99 14th July 2005)**

HU

KG – Extremism Outlawed

The Statute "On Counteraction of Extremist Activities" was passed by *Jogorku Kenesha* (Parliament) of the Republic of Kyrgyzstan on 30 June 2005 and signed into law by President Bakiev on 17 August 2005. The act corresponds in most of its provisions to similar legislation adopted earlier in the countries of the Commonwealth of Independent States, namely Russia, Moldova, and Kazakhstan (see IRIS 2002-8: 15).

The provisions of the document concerning the mass media include the definition of extremist activities and extremist materials, regulation of applicable preventive measures and sanctions for breaches of law.

The Statute considers four kinds of activities as extremist (Art. 1):

- activities of persons or legal entities, including mass media entities, aimed at the planning and organization of violent alteration of constitutional order, attempts on territorial integrity, terrorist attacks, derogation of national dignity, propaganda regarding exclusiveness, superiority or inferiority of citizens in connection with their relation to religion, or social, racial, national, or linguistic affiliation, etc.;
- propaganda and public demonstration of Nazi symbols and products or symbols which are similar to Nazi symbols up to a confusion degree;
- public appeals to carry out said activities; and
- funding of extremism.

Besides abstaining from extremist activities the mass media shall be prohibited from disseminating "extremist materials", i.e. information on any medium, calling for commitment to extremist activities or justifying the exercise of such actions, as well as substantiating racial or national superiority or justifying the commission of crimes against ethnical, social, national or religious groups.

Extremist activities and dissemination of extremist materials are under a total ban; however the mass media shall have a chance to make a mistake. According to Article 8 of the Statute, in the case of a single violation of the ban, the governmental agency authorised to carry out registration of the mass media, the governmental agency in charge of the sphere of press, broadcasting and mass communications, the Prosecutor-General, or prosecutors subordinate to him shall all be authorised to issue a warning pointing to the inadmissibility of illegal activities of a mass medium and meting out the term for elimination of the violation, if it is appropriate. If the said elimination does not take place or new facts are discovered that prove continuation of the extremist activities by the mass media entity within twelve months from the date of passing of the warning, its activity shall be subject to termination.

Article 11 of the Statute provides for the grounds for termination of the activities of a mass medium enterprise. Along with those mentioned in Article 8, it

determines a number of violations that incur penalty without prior warning. These are breaches of law that involve infringement of the rights and freedoms of citizens, or cause injury to a person, health of citizens, environment, or breach public peace and public security, or intrude upon property, economic interests of natural or legal persons, society and the state, or create the real threat of causing such harm. The only body empowered to impose specified sanctions on the mass media is the court. Cases concerning extremist activities are to be initiated before the court by the aforementioned authorised governmental agencies. According to Article 11 the courts have competence to issue a writ suspending the dissemination of extremist materials in periodical publications or radio and television programs.

The distinctive feature of the Statute is the absence of a right of mass media entities to challenge illegal acts of governmental authorities. Unlike non-governmental public organisations or religious organisations (Articles 7, 10), mass media entities are not allowed by the Statute to challenge prior warnings or any other decisions of supervisory bodies. Obviously, the mass media retain the fundamental right to judicial protection. However, the protection measures granted by general laws (for instance, the Code of Civil Procedure) do not seem to be efficient enough. ■

Dmitry Golovanov
The Moscow Media Law and Policy Institute

• Statute of the Republic of Kyrgyzstan "O protivodeystvii ekstremistskoy deyatel'nosti" ("On Counteraction of Extremist Activities") of 17 August 2005, available at:
http://merlin.obs.coe.int/redirect.php?id=9795
RU

NL – BREIN's Successful Bid to Halt the Distribution of Circumvention Devices

On 21 July 2005, the District Court in Rotterdam rendered its judgment on a lawsuit initiated by *Bescherming Rechten Entertainment Industrie Nederland* (Protection of Dutch Entertainment Industry Rights – BREIN). This is the first time BREIN has initiated proceedings on the grounds of Article 29a of the Dutch Copyright Act and Article 19 of the Dutch Performers and Phonograms Act. Both articles implement the provisions of the European Copyright Directive that forbid the circumvention of technological protection measures and the commercial distribution of circumvention devices.

The BREIN foundation acts for several copyright owners and neighbouring rights owners when unauthorised copying and/or distribution of copyright protected works (for example music, movies, games or interactive software) occurs. Examples of unauthorised copying and distribution are a bootleg CD and the illegal uploading of music. When copyright owners decide to use a technological protection measure to protect their work, and this technological protection measure has been circumvented, or devices are commercially distributed that enable circumvention of the technological protection measure, BREIN takes action to halt the alleged infringement.

The case BREIN initiated on 21 July 2005, concerned the commercial distribution of circumvention devices. Teledirekt is a company that commercially distributed the DVD X copy Gold, DVD X copy Platinum and DVD Xpress programmes. These make it possible to circumvent the Contents Scrambling System (CSS) on a DVD. In its brochure, Teledirekt advertised that this programme "is the most effective programme for making a copy of a DVD", and that "the programme has been declared unlawful by a court of law in the United States" and "the programme is able to handle all kinds of protection on DVDs". Moreover, Teledirekt's direct mail boasted that its software "copies even protected DVD movies and circumvents all protection measures". Teledirekt argued that it should be possible to make a back up copy for consumers of DVDs and that this is precisely what their programme DVD X Copy allows for. The judge ruled that the programme can be considered as a circumvention device and that distribution of these devices is prohibited under Article 29a of the Dutch Copyright Act and Article 19 of the Dutch Performers and Phonograms Act. ■

Margreet Groenenboom
Institute for Information Law (IViR) University of Amsterdam

• Information about legal proceedings on BREIN's website, available at:
http://merlin.obs.coe.int/redirect.php?id=8958
NL

RO – New Regulation in Support of Domestic Film Production

A draft regulation on film production drawn up by the Romanian Ministry for Culture was adopted by the government on 14 July 2005 as Regulation N° 39 with effect from the beginning of August 2005.

Above all, the new rules, which replace the previous *Legea cinematografiei nr. 630/2002* (Film Act N° 630/2002, see IRIS 2003-2: 13) should create better funding possibilities for Romanian film productions and improve the competitiveness of all domestic producers. More attention will be paid in future to quality guarantees when film projects requiring funding are selected to take part in project bids. Co-productions will receive more support than in the past, but above all the new funding system should promote home productions.

From now on, all public and private TV stations in Romania must pay 3% of the value of the advertising time allocated to them in their contract to the *Centrul Național al Cinematografiei* (national cine-

matographic centre – CNC). Pursuant to Art. 13 (1) e) this sum is kept back by the advertiser or agency that buys the advertising time and passed on to the CNC. The purchasers of advertising slots are also required to send the CNC, at regular intervals, lists of all their contracts showing the value of the contract and who sold them the advertising time. 3% of any revenue from the advertising time allocated by the broadcaster (which depends on the particular price of a minute of broadcasting at a particular time) must also be paid to the CNC in the case of barter agreements (contracts governing programme time exchanged in return for advertising time). Cable TV companies that have their own licence to produce programmes must give the CNC 3% of the price of sold advertising time. They must also contribute 1% of their monthly income to film production.

Delays in paying the sums owing to the CNC under the new rules will trigger the levying of interest and financial penalties in accordance with current legislation pertaining to taxes and duties accruing to the state. Under Art. 15, the CNC is also empowered to levy execution in accordance with prevailing legislation.

Under Art. 16, and subject to certain conditions also set out in the Regulation, video and DVD vendors and rental firms (who have to pay a 2% surcharge to the CNC) and television broadcasters and cable companies can opt instead to invest up to 50% of the amount accruing to the CNC directly in a film production, following a request from a film producer and subject to notification of the CNC.

Art. 17 provides that public television in Romania must make a contribution of 15% of its annual advertising revenue towards promoting domestic film production. Here, too, there is the possibility of opting instead to invest up to 50% of this sum directly, following a request from film producers.

According to Art. 78, the *Societatea Română de Radiodifuziune* (public radio) and the *Societatea Română de Televiziune* (public television) are required to include in the advertising time slotted into their programme schedules any advertisements for Romanian film premieres produced in accordance with the Regulation. Within 30 days of the Regulation's entry into force, the CNC, public radio and public television must agree on a protocol defining the conditions and time set aside in their programme schedule for raising awareness of Romanian film productions. ■

Mariana Stoican
Radio Romania International, Bucharest

● ***Ordonanţa nr. 39 din 14 iulie 2005 privind cinematografia*** **(Regulation N° 39 of 14 July 2005), Monitorul Oficial Nr. 704/4 of August 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9793**

RO

RO – Licensing Procedure for Broadcasters

Decision N° 403 of 30 June 2005 of the *Consiliul Naţional al Audiovizualului* (national supervisory body for electronic audiovisual media - CNA*)* defines the procedure and conditions applicable in Romania for the granting of national, regional and local licences.

After a number of definitions set out in Art. 2 (eg. "audiovisual licence", "national", "regional", "local" licence, "telecommunications network"), Art. 3 explains that audiovisual licences for terrestrial broadcasting are granted on the basis of tenders, and that in the case of network broadcasting (*reţea de telecomunicaţii)*, licensing decisions are taken by the CNA. The invitation to submit tenders must be officially announced by the CNA.

Art. 8 stipulates that, after a hearing with the applicant, the CNA must base its decision on general criteria, such as serving the public interest and maintaining a balance between national, regional, and local programmes, the need to prevent a dominant market position in the media sphere or any practices that could hamper free competition, and the applicant's experience and performance in the audiovisual sphere. Other critiera for assessing the structure and programme format include respect for fundamental human rights and the protection of minors, respect for pluralism and diversity and protection of the Romanian culture and language and national minorities. Account should also be taken of any other licences awarded to the applicant, the estimated daily programme length, and the type of programmes. When deciding whether or not to grant the licence, the CNA is also required to take into account the applicant's obligations regarding the percentages set for European productions, Romanian productions, and European productions that are the work of independent producers. Licensing decisions must be the subject of an official announcement (Art. 10).

Art. 21 states that as soon as the new Regulation enters into force existing CNA decisions (N° 200 of 15 March 2005 on the approval of the audiovisual licensing procedure and conditions for programme services broadcast via telecommunications networks, and N° 213 of 17 March 2005 on the licensing of terrestrial tranmission of broadcast programmes (see IRIS 2005-5: 19) shall cease to apply.

The new Decision 403 combines and improves the previous two decisions. ■

Mariana Stoican
Radio Romania International, Bucharest

● ***Decizia CNA nr. 403 din 30 iunie 2005 privind aprobarea procedurii şi condiţiilor de acordare a licenţei audiovizuale şi a procedurii de eliberare a deciziei pentru autorizare audiovizuală*** **(Decision N° 403 of 30 June 2005),** ***Monitorul Oficial al României, Partea I,*** **N° 595/11 July 2005, available at: http://merlin.obs.coe.int/redirect.php?id=9794**

RO

RU – Concept Paper to Develop Broadcasting Through 2015

Andrei Richter
The Moscow Media Law and Policy Centre

In July 2005, the Ministry of Culture and Mass Communications of Russia announced a Concept Paper on the Development of Broadcasting for the period 2006-2015. The Concept Paper, developed by the Department of Mass Communications of the Ministry, consists of two main parts: legal and technical.

The Concept Paper points to the lack of legal basis for broadcasting in Russia and suggests that the gap should be filled by drafting and adopting federal laws on public broadcasting, on a federal licensing commission, and on cable TV.

The technical side of the Concept Paper is focused on the state of broadcasting in Russia and measures to modernize it, with the focus on the transition to digital broadcasting (on 25 May 2004 the Government approved a resolution to adopt European DVB standard for digital television in Russia). The Concept Paper suggests concrete benchmarks in this transition, e.g. to stop issuing licenses for analogue broadcasting in 2008, stop sale and production of TV sets without digital decoders by 2010, etc.

The cost of transition to digital broadcasting is evaluated in the document at RUB 30,85 billion, or roughly EUR 900 million to be drawn from the federal and local budgets and private investments.

At present the Concept Paper is being reviewed by other ministries and major broadcasters. It is foreseen that the Government will adopt a Programme to implement targets set in the paper. ■

● ***Kontseptsiya razvitiya teleradioveshchaniya v Rossii na period 2006-2015 goda* (Concept Paper on Development of Broadcasting in 2006-2015), available at: http://merlin.obs.coe.int/redirect.php?id=9796**

RU

PUBLICATIONS

Prosser, T.,
The Limits of Competition Law Markets and Public Services
(Oxford Studies in European Law) - GB: Oxford
ISBN 0-19-926669-7
GBP 50 Hardback

Koziol, H., Warzilek, A.,
Personlichkeitsschutz Gegenüber Massenmedien / The Protection of Personality Rights Against Invasions by Mass Media (Tort & Insurance Law)
AT: Vienna
2005, Springer-Verlag (Published in English)
ISBN 3211238352

Gunter, B., Oates, C., Blades, M.,
Advertising to Children on TV: Context, Impact, and Regulation
2005, Lawrence Erlbaum Associates, Inc
ISBN 080585830X

Moran, L. J., Sandon, E., Loizidou, E., Christie, I. (Editors),
Law's Moving Image - GB: London
2004, Glasshouse Press

Kirby, M., Turner, M.,
Les Droits de l'homme dans le cyberespace
2005, UNESCO/ECONOMICA
ISBN 92-3-203979-6

Duvochel, A.,
Le nouveau paysage audiovisuel français. Vendre ses films ou vidéos aux chaînes de télévision: opérateurs, types de programmes, paramètres de négociation.
FR, Paris - 2005, Editions Anaelle

Berenboom, A.
Le nouveau droit d'auteur et les droits voisins
3e édition
BE : Bruxelles - 2005, Larcier
ISBN 2-8044-1721-2

Azzi, T.,
Recherche sur la loi applicable aux droits voisins du droit international privé
Editions LGDJ
ISBN 2275025251

Immenga, U., Schwintowski, H-P., Wissmann, M. (Hrsg.),
Medienvielfalt durch Wettbewerb? Medienregulierung und Medienmärkte im Wandel
DE, Baden Baden - 2005, Nomos Verlag
ISBN 3-8329-1428-5

Fechner, F.,
Medienrecht
DE: Stuttgart
2005, UTB
ISBN 3825221547

Villaseñor Orozco, P.,
Recht der Tele- und Mediendienste - 2005
ISBN 3936318379

Holznagel, B.,
Grundzüge des Telekommunikationsrechts
Deutschland, München
2005, Verlag C.H. Beck
ISBN 3406523579

KALENDER

Public Private Partnership (PPP), Public Service and Dreams Conference
1 - 2 November 2005
Organiser: Law Department, Copenhagen Business School in collaboration with Danmarks Radio (DR) and EBU
Venue: Copenhagen
Information & Registration:
Tel.: +45 3815 2400 - Fax: +45 3815 2401
E-mail: jd.inf@cbs.dk
http://uk.cbs.dk/forskning_viden/fakulteter_institutter_centre/institutter/oekonomi/law/h_jrebox/arrangementer/tuesday_01_november_2005_9_00_00_am_public_private_partnership_public_service_and_dreams_konference