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EDITORIAL

Update of signatures and ratifications of all relevant international treaties

On pages 7-10 of this issue IRIS publishes an extensive overview of the state of signatures and ratifications of all international treaties that are relevant to the audiovisual sector, with the exception of the United Nation's Convention concerning the use of broadcasting in the cause of peace. Publication of the tables on these four centre pages allows the reader to detach them if so desired. The state of signatures and ratifications of international treaties which are European Conventions are updated until 1 May 1996 and of the other international treaties until 1 March 1996. The update was compiled by Mr Alfonso de Salas of the Media Section of the Council of Europe's Directorate of Human Rights with the kind assistance of the international organisations that administer the different treaties.

The updates are also published in two documents (English and French) of 15 March 1996 produced by the Council of Europe under number MM-S-PR (96) 2. In addition to the state of signatures and ratifications, these documents reproduce the exact wording of all declarations and reservations made by the State Parties in regard to the European Conventions. The documents are available from the media section of the Council of Europe's Directorate of Human Rights by sending a written request to fax No +33 88412705.

As before, IRIS will keep its readers informed on a monthly basis of any new signatures and ratifications of relevant European Conventions. In regard to the other relevant international treaties this kind of information is available through the legal information service desk of the Observatory.

Ad van Loon
IRIS Coordinator

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The global Information Society

USA: Preparation of a project on the creation of a Virtual Magistrate

On 25th October 1995 a workshop organised by the National Center for Automated Information Research and the Cyberspace Law Institute proposed the creation of a Virtual Magistrate. The purpose of this pilot project is to set up a structure offering players on the Internet swift arbitration and provisional decisions providing a solution to conflicts involving these same players. The idea of arbitration, which is specific to the Internet, arose from the realisation that the traditional legal system is too slow, too expensive and too difficult of access for it to be able to respond appropriately to the problems raised by the Internet. In that networks are interconnected and enable different players to act mainly without consideration of frontiers, remedies based on domestic legal systems alone seem difficult to apply. The Virtual Magistrate project is an attempt, therefore, to respond to the need for a global and immediate settlement of conflicts arising on the Internet. However, it is in no way a substitute for traditional legal solutions and parties to the conflict under consideration may also bring proceedings based on traditional procedures. The scope of competence of the Virtual Magistrate should include messages, applications or files deemed defamatory, obscene or in violation of copyright, privacy, manufacturing secrecy, etc. Once a matter is referred, the Virtual Magistrate must decide to what extent an operator may reasonably prohibit or restrict access to the litigious file or service. An extreme solution would involve prohibiting access of a person to an on-line service. On the other hand the competence of the Virtual Magistrate would not include problems involving invoicing or financial obligations binding users to the operators. The "magistrates" making up this arbitration structure would be designated jointly by the American Arbitration Association and by the members of a sub-committee of the Cyber Law Institute. These "magistrates" must be familiar with on-line services and have command of the relevant legal principles. Although the means and methods of appointing the magistrates have not yet been fixed precisely it would seem that these posts will not just be open to lawyers. The structure is to be independent of political power and of the operators on Internet; it is not a real court but it hopes to operate as such in the network. Matters can only be referred to it if the parties concerned are bound by a contract authorising them to submit their conflict to the authority of the Virtual Magistrate. Proceedings brought before this arbitration structure are purely voluntary and are only binding for those parties who have decided to submit to its authority. The appeal, if deemed admissible, must be dealt with rapidly and, if possible, within forty eight hours. The complaint may only be made public after the decision has been pronounced and, if necessary, if the circumstances and the situation justify it, the decision may remain confidential. In any case, the decisions adopted by this new arbitration body will only be guidelines to which the parties may or may not submit. The Virtual Magistrate will have neither the authority nor the means to oblige the parties to comply with the position it adopts.

The main purpose is that this arbitration jurisprudence may, in the future, form an informal code of conduct governing relations between the different players on the Internet.

For more details and further information about this project, documentation is available on the Internet at URL <http://www.ll.georgetown.edu/lc/cli.html#VM> Top.

(Frédéric Pinard,
European Audiovisual Observatory)

ILO

ILO-Symposium on Multimedia Convergence

The International Labour Organization is organising a Symposium on Multimedia Convergence, which is scheduled to take place 29-31 January 1997. Representatives of Governments and employers' and workers' organisations will discuss the social and labour questions raised by the convergence of previously distinct industries such as film-making, sound-recording, multi-media production, journalism, graphic design, printing and publishing, broadcasting and telecommunications.

The Office is currently seeking information, including published studies and informed opinion, regarding the impact of the convergence process on employment, in particular as seen in changing levels and types of employment; conditions of employment (contractual status, pay and benefits, employment security, subcontracting, etc.); and labour-management relations and the determination of terms and conditions of employment.

Topics to be addressed include the impact of digital technology on the organisation of work (teamwork, telework, homework, etc.); education and training needs; appropriate social policies; human resources policies and labour relations in the digital age.

Please forward any information you may wish to contribute to Ann Herbert, TRAVINT, International Labour Organization, 4 rte des Morillons, CH-1211 Geneva 22.

(Ann Herbert,
International Labour Organization - ILO)

WTO/WIPO

Agreement between the WTO and WIPO

An agreement was concluded on 22 December 1995 between the World Trade Organisation (WTO) and the World Intellectual Property Rights Organisation (WIPO) which came into force on 1 January 1996. It is an expression of the wish of both organisations to intensify relations and to establish real cooperation through the conclusion of appropriate agreements in the future. This is in order to respect as effectively as possible the obligations arising from the recent TRIPS agreement which places intellectual property under the authority of the WTO.

From henceforth, by virtue of Article 2 of the above-mentioned agreement, the International Bureau of WIPO must supply both organisations with texts of laws and regulations it receives. Moreover, it should also facilitate data exchange without discrimination between both organisations. The circulation of information requested must be free and take place in the best possible conditions even if the requestor is only a member of the WTO and not of WIPO. Also technical and legal assistance provided by the International Bureau of WIPO should, by virtue of the TRIPS agreement, be extended to these same applicants (Article 4).

Agreement between the World Intellectual Property Organisation and the World Trade Organisation on 22 December 1995. Available in English from the Observatory.

(Frédéric Pinard,
European Audiovisual Observatory)

Council of Europe

Declaration and Recommendation on the protection of journalists in situations of conflict and tension

On 3 May 1996, on the occasion of World Press Freedom Day, the Committee of Ministers of the Council of Europe adopted a Declaration on the protection of journalists in situations of conflict and tension as well as a Recommendation to member States on the same subject (Recommendation No. R (96) 4).

These texts are the result of intergovernmental work carried out under the authority of the Steering Committee on the Mass Media (CDMM) following the 4th European Ministerial Conference on mass media policy (Prague, 7-8 December 1994). Professional organisations and interested NGOs were closely associated with their elaboration.

The Declaration contains a solemn political reaffirmation that all journalists working in situations of conflict and tension are, without qualification, entitled to the full protection of international humanitarian law and international human rights instruments such as the European Convention on Human Rights. It condemns the growing number of killings, disappearances and other attacks on journalists and considers these to be also attacks on the free exercise of journalism. Furthermore, the Committee of Ministers considers that, in urgent cases, the Secretary General of the Council of Europe could take speedily all appropriate action following receipt of reports on infringements of rights and freedoms of journalists in situations of conflict and tension and calls on the member States to co-operate with the Secretary General in this regard.

In the Recommendation, the Committee of Ministers recommends that the governments of member States be guided in their actions and policies by a series of basic principles concerning the protection of journalists in situations of conflict and tension. These basic principles, to be applied without distinction to foreign correspondents and local journalists and without any kind of discrimination, are appended to the Recommendation. It is also recommended that governments disseminate widely the text of the Recommendation, *inter alia* among media organisations, journalists and professional organisations, public authorities and their officials, both military and civilian.

The basic principles cover various aspects of the protection of journalists, in particular in terms of their rights and working conditions: right to seek, impart and receive information and ideas regardless of frontiers; freedom of movement and correspondence; confidentiality of sources; means of communication; protection and assistance by police and armed forces to journalists when they so request; non-discriminatory and non-arbitrary actions by public authorities vis-à-vis journalists; access to the territory of a state; principles on the fair operation of accreditation systems and on avoiding any abuse of them.

A separate principle deals with the investigations which States must undertake in cases of attacks on the physical safety of journalists in order to bring to justice those responsible for such attacks.

The text also notes that media organisations, professional organisations and journalists themselves can take measures which contribute to the protection of the physical safety of journalists: adequate information and training before embarking on a dangerous mission, appropriate insurance cover, and the use of emergency "hotlines" such as the one operated by the International Committee of the Red Cross.

Declaration on the protection of journalists in situations of conflict and tension and Recommendation No. (96) 4 of the Committee of Ministers to member States on the protection of journalists in situations of conflict and tension, both adopted on 3 May 1996 by the Committee of Ministers at its 98th Session. Available in English and French from the Observatory.

(Jeroen Schokkenbroek, Media Section of the
Directorate of Human Rights of the Council of Europe)



European Union

Court of First Instance of the European Communities: TF1 against the Commission

On 2 February 1996 an appeal lodged against the Commission by the company *Télévision française 1* was referred to the Court of First Instance of the European Communities, wherein it seeks confirmation by the Court of default on the part of the Commission which failed to respond in due time to a summons sent on 3rd October 1995. This summons referred to a complaint lodged on 10 March 1993 with the Commission against the French State, a complaint concerning the new means and methods of financing and operating the French public channels France 2 and France 3 following on their grouping together within *France Télévision*. TF1 was of the opinion that there was a violation of article 85 of the EC Treaty which prohibits cartel agreements as well as article 90 paragraph 1 and article 92 of the same treaty; the former stipulating that public companies or companies benefiting from exclusive and special rights are subject to the rules of the EC Treaty, the latter that aids granted by States which distort or are likely to distort competition by promoting certain companies or types of production are prohibited insofar as they affect trade between Member States. Dissatisfied with the attitude of the Commission which, in a letter of 11 December 1995, notified it of its intention to await the answer of the French authorities to the questions addressed to them before taking a decision about the complaint, TF1 decided to refer the matter to the Court of First Instance of the European Communities so that, initially, the Court could ascertain the default of the Commission that the Court could then invite the Commission to act and, finally, that it withdraw the above-mentioned position of 11 December 1995.

Court of First Instance of the European Communities, appeal lodged on 2nd February 1996 by *Télévision française 1* against the Commission of the European Communities (Case T-17/96). OJ EC No C 95 of 30 March 1996, p17. Available in English, French and German at the Observatory.

(Frédéric Pinard,
European Audiovisual Observatory)

European Commission: No objection to a merger operation creating Channel Five

On 21 November 1995 the Commission received notification of a merger operation involving *MAI plc*, *Pearson Television Ltd*, the *Compagnie Luxembourgeoise de Télédiffusion (CLT)* and *Warburg Pincus Ventures LP*, an operation leading to the creation of a new company: *Channel Five*. After examination, the Commission concluded that the afore-mentioned operation did not constitute a merger within the meaning of the European merger regulations thereby opening access to the fifth English terrestrial channel to *Channel Five*. This new company should start broadcasting on 1 January 1997 (see also IRIS 1996-3: 12 and 1996-1: 12).

Decision of the Commission of 22 December 1995 in Case No IV/M.673 - *Channel Five*. Available in English from the Observatory.

(Frédéric Pinard,
European Audiovisual Observatory)

European Commission: Green Paper on the legal protection of encrypted services on WWW

In IRIS 1996-3 we announced the publication of the European Commission's Green Paper on the legal protection of encrypted services in the Internal Market. In the meantime the full text of this Green Paper is available on the Internet at

URL <http://www.cec.lu/en/record/green.html>.



European Commission:
Green Paper on Commercial Communications

On 8 May 1996 the European Commission adopted its long awaited Green Paper on Commercial Communications in the Internal Market. It was already announced in November 1992.

The Green Paper is based on a comprehensive review of the relevant legislation in each Member State of the European Union, a full market analysis and surveys undertaken by the Commission. The detailed results of these reviews are included in an associated Working Document.

The Green Paper, although targeting all possible forms of commercial communication, is especially relevant to the communication of commercial information by transfrontier broadcasting and new information services (especially online services). These transfrontier services may be hampered in their development because they have to comply with different national rules in different Member States and this then affects the functioning of the internal market. Therefore, the Commission is exploring the possibility of formulating rules that are common to all Member States so as to avoid that those who are engaged in the transfrontier communication of commercial information would have to comply with all the different rules in all of the Member States where the communication is or can be received.

National legislation at the level of the EU Member States usually restricts the possibility or contents of commercial communications for general interest reasons: protection of minors, public health, consumer protection, etc. Although non-discriminatory national rules restricting the communication of commercial information in the general interest are possible under Community law, they have to be proportionate in view of the aims pursued: they should not unduly affect the realisation of possible other general interest goals pursuit.

Therefore, the Commission aims at identifying restrictions that are capable of effectively protecting the general interest objectives aimed at and which would also be proportionate in view of possible other general interest objectives that are worth protecting. For this, the Commission proposes to establish an ad hoc committee of representatives of the Member States to identify measures that are effective and at the same time proportionate. Furthermore, the Commission announces a Communication that will propose a transparency mechanism for Information Society services. Such a mechanism would involve an obligation for the Member States to notify their draft legislation (including that pertaining to commercial communication) to all other Member States and to the Commission so that it could be analysed in terms of compatibility with Community law.

The Commission invites all interested parties to submit their views on the proposals of the Green Paper before the end of October 1996 by sending them to Ms Margot Fröhlinger at the European Commission's DG XV/E-5, C-107 8/59, Rue de la Loi 200, B-1049 Brussels, fax: +32 2 2957712, e-mail: E5@dg15.cec.be.

Green Paper on Commercial Communications in the Internal Market, COM (96) 192 final. Can be ordered from the European Commission specifying the preferred language at the address mentioned above. An electronic version is available at <http://www.cec.lu/en/record/green/gp006/en/index.html>.

(Ad van Loon,
European Audiovisual Observatory)

Copyright

	WIPO Berne Convention for the protection of the literary and artistic works (1886)		UNESCO Universal Copyright Convention (Geneva, 1952)		WIPO-UNESCO Multilateral Convention for the avoidance of double taxation of copyright royalties (13 December 1979)			WIPO-UNESCO-ILO Rome Convention* (26 October 1961)		OMPI-UNESCO-BIT Phonograms Convention, Geneva** (29 October 1971)
	Date on which the State became Party to the Convention	Latest Act of the Convention to which the State is Party P : Paris, B : Bruxelles, R : Rome, S : Stockholm	Ratification, Accession and Declaration		Ratification and Accession	Protocol	Notification	Ratification or Accession	Declarations	Ratification Accession / Acceptance Declaration
			1952 Text	1971 Text						
Member States of Council of Europe										
Albania	06/03/1994	P : 06/03/1994								
Andorra			22/01/1953 : R							
Austria	01/10/1920	P : 21/08/1982	02/04/1957 : R	14/05/1982 : A				09/06/1973 : R	X	21/10/1982 : R
Belgium	05/12/1887	B : 01/08/1951 - S : 12/2/1975	31/05/1960 : R							
Bulgaria	05/12/1921	P : 04/12/1974	07/03/1975 : A	07/03/1975 : A				31/08/1995 : A	X	06/09/1995 : A
Cyprus	24/12/1964	P : 27/07/1983	19/09/1990 : A	19/09/1990 : A						30/09/1993 : A
Czech Republic	01/01/1993	P : 01/01/1993	26/03/1996 : D	26/03/1996 : D	30/09/1993 : D	30/09/1993 : D	X	01/01/1993 : D	X	01/01/1993 : D
Denmark	01/07/1903	P : 30/06/1979	09/11/1961 : R	11/04/1979 : R				23/09/1965 : R	X	24/03/1977 : R
Estonia	26/10/1994	P : 26/10/1994								
Finland	01/04/1928	P : 01/11/1986	16/01/1963 : R	01/08/1986 : R				21/10/1983 : R	X	18/04/1973 : R
France	05/12/1887	P : 10/10/1974 - P : 15/12/1972	14/10/1955 : R	11/09/1972 : R				03/07/1987 : R	X	18/04/1973 : R
Germany	05/12/1887	P : 10/10/1974 - P : 22/01/1974	03/06/1955 : R	18/10/1973 : R				21/10/1966 : R	X	18/05/1974 : R
Greece	08/11/1920	P : 08/03/1976	24/05/1963 : A					06/01/1993 : A		09/02/1994 : A
Hungary	14/12/1922	P : 10/10/1974 - P : 15/12/1972	23/10/1970 : A	15/09/1972 : R				10/02/1995 : A	X	28/05/1975 : A
Iceland	07/09/1947	R : 07/09/1947 - P : 28/12/1984	18/09/1956 : A					15/06/1994 : A	X	
Ireland	05/10/1927	B : 05/07/1959 - S : 21/12/1970	20/10/1958 : R					19/09/1979 : R	X	
Italy	05/12/1887	P : 14/11/1979	24/10/1956 : R	25/10/1979 : R				08/04/1975 : R	X	24/03/1977 : R
Latvia	11/08/1995	P : 11/08/1995								
Liechtenstein	30/07/1931	B : 01/08/1951 - S : 25/05/1972	22/10/1958 : A							
Lithuania	14/12/1994	P : 14/12/1994								
Luxembourg	20/06/1888	P : 20/04/1975	15/07/1955 : R					25/02/1976 : A	X	08/03/1976 : R
TfYRoMacedonia	08/09/1991	P : 08/09/1991								
Malta	21/09/1964	R : 21/09/1964 - P : 12/12/1977	19/08/1968 : A							
Moldova	02/11/1995	P : 02/11/1995						05/12/1995 : A	X	
Netherlands	01/11/1912	P : 30/01/1986 - P : 10/01/1975	22/03/1957 : R	30/08/1985 : R				07/10/1993 : A	X	12/10/1993 : A
Norway	13/04/1896	P : 11/10/1995 - P : 13/06/1974	23/10/1962 : R	07/05/1974 : R				10/07/1978 : A	X	01/08/1978 : R
Poland	28/01/1920	P : 22/10/1994 - P : 04/10/1990	09/12/1976 : A	09/12/1976 : A						
Portugal	29/03/1911	P : 12/01/1979	25/09/1956 : R	30/04/1981 : A						
Romania	01/01/1927	R : 06/08/1936 - S : 26/02/1970								
Russia	13/03/1995	P : 13/03/1995	27/02/1973 : A	09/12/1994 : A						13/03/1995 : A
San-Marino										
Slovakia	01/01/1993	P : 01/01/1993	31/03/1993 : D	31/03/1993 : D	28/05/1993 : D	28/05/1993 : D	X	01/01/1993 : D	X	01/01/1993 : D
Slovenia	25/06/1991	P : 25/06/1991	05/11/1992 : D	05/11/1992 : D						
Spain	05/12/1887	P : 10/10/1974 - P : 19/02/1974	27/10/1954 : R	10/04/1974 : R				14/11/1991 : R	X	24/08/1974 : R
Sweden	01/08/1904	P : 10/10/1974 - P : 20/09/1973	01/04/1961 : R	27/06/1973 : R				18/05/1964 : R		18/04/1973 : R
Switzerland	05/12/1887	P : 25/09/1993	30/12/1955 : R	21/06/1993 : R				24/09/1993 : A	X	30/09/1993 : R
Turkey	01/01/1952	P : 01/01/1996								
Ukraine	25/10/1995	P : 25/10/1995	17/01/1994 : D							
United Kingdom	05/12/1887	P : 02/01/1990	27/06/1957 : R	19/05/1972 : R				18/10/1964 : R	X	18/04/1973 : R
EEC										
Non Member States										
Belarus			29/03/1994 : D							
Bosnia-Herzegovina	06/03/1992	P : 06/03/1992	10/07/1993 : D	12/07/1993 : D						
Croatia	08/10/1991	P : 08/10/1991	06/07/1992 : D	06/07/1992 : D						
Holy See	12/09/1935	P : 24/04/1975	05/07/1955 : R	06/02/1980 : R						18/07/1977 : R
Israel	24/03/1950	B : 01/08/1951 - S : 26/02/1970	06/04/1955 : R							01/05/1978 : R
Monaco	30/05/1889	P : 23/11/1974	16/06/1955 : R	13/09/1974 : R				06/12/1985 : R	X	02/12/1974 : R
Morocco	16/06/1917	P : 17/05/1987	08/02/1972 : A	28/10/1975 : A						
Tunisia	05/12/1887	P : 16/08/1975	19/03/1969 : A	10/03/1975 : R						
Other States***										
South Africa	03/10/1928	B : 01/08/1951 - P : 22/03/1980								
Algérie			28/05/1973 : R	28/05/1973 : A						
Argentina	10/06/1967	B : 10/06/1967 - P : 08/10/1980	13/11/1957 : R					02/03/1992 : R		30/06/1973 : A
Australia	14/04/1928	P : 01/03/1978	01/02/1969 : R	29/11/1977 : A				30/09/1992 : A	X	22/06/1974 : A
Brazil	09/02/1922	P : 20/04/1975	13/10/1959 : R	11/09/1975 : R				29/09/1965 : R		28/11/1975 : R
Canada	10/04/1928	R : 01/08/31 - S : 07/07/1970	10/05/1962 : R							
China	15/10/1992	P : 15/10/1992	30/07/1992 : A	30/07/1992 : A						30/04/1993 : A
Egypt	07/16/1977	P : 07/06/1977			11/02/1982 : A					23/04/1978 : A
India	01/04/1928	P : 06/05/1984 - P : 10/01/1975	21/10/1957 : R	07/01/1988 : R	31/01/1983 : A		X			12/02/1975 : R
Japan	15/07/1899	P : 24/04/1975	28/01/1956 : R	21/07/1977 : R				26/10/1989 : A	X	14/10/1978 : R
Mexico	11/06/1967	P : 17/12/1974	12/02/1957 : R	31/07/1975 : R				18/05/1964 : R		21/12/1973 : R
New-Zealand	24/04/1928	R : 04/12/1947	11/06/1964 : A							13/08/1976 : A
Thailand	17/07/1931	P : 02/09/1995 - P : 29/12/1980								
USA	01/03/1989	P : 01/03/1989	06/12/1954 : R	18/09/1972 : R						10/03/1974 : R

* International Convention for the protection of performers, producers of phonograms and broadcasting organisations

** Convention for the protection of producers of phonograms against unauthorised duplication of their phonograms - *** Selection.

Satellite and others

	ESA/ASE Convention for the establishment of a European Space Agency (30 May 1975)	EUTELSAT Convention establishing the European Telecommunications Satellite Organisation "EUTELSAT" (15 July 1982)		INTELSAT Agreement relating to the International Telecommunications Satellite Organisation "INTELSAT" (20 August 1971)	WIPO-UNESCO Convention relating to the distribution of programme-carrying signals transmitted by satellite (21 May 1974)	WIPO Traity on the international registration of audiovisual works (20 April 1989)	
	Date of ratification	Signature	Ratification / Accession	Entry into force	Date on which State became Party to the Convention	Signature	Ratification / Accession
Member States of Council of Europe							
Albania			18/02/1993 : A		06/03/1994		
Andorra			02/12/1994 : A				
Austria	30/12/1986	11/05/1983	30/04/1985	12/02/1973	01/10/1920	20/04/1989	27/02/1991 : R
Belgium	03/10/1978	26/07/1983	03/07/1985	12/02/1973	05/12/1887		
Bulgaria					05/12/1921		
Cyprus		28/09/1982	17/07/1985	01/03/1974	24/02/1964		
Czech Republic			15/12/1993 : A	01/01/1993	01/01/1993		01/01/1993 : R
Denmark	15/09/1977	28/09/1982	17/07/1984	12/02/1973	01/07/1903		
Estonia					26/10/1994		
Finland	30/10/1980	28/09/1982	31/01/1985	12/02/1973	01/04/1928		
France		28/09/1982	12/01/1984	12/02/1973	05/12/1887	20/04/1989	27/02/1991 : R
Germany	26/07/1977	19/10/1983	03/12/1984	02/07/1973	05/12/1887		
Greece		14/05/1984	26/08/1987	12/02/1973	09/11/1920	29/12/1989	
Hungary			21/10/1993 : A	26/01/1994	14/02/1922	20/04/1989	
Iceland		27/08/1985	12/06/1987	07/02/1975	07/09/1947		
Ireland	10/12/1980	03/06/1983	20/03/1985	12/02/1973	05/10/1927		
Italy	20/02/1978	18/01/1983	03/07/1985	04/06/1973	05/12/1887		
Latvia			16/09/1994 : A		11/08/1995		
Liechtenstein		15/12/1983	04/02/1987	12/02/1973	30/07/1931		
Lithuania			13/05/1992 : A		14/12/1994		
Luxembourg		28/09/1982	27/08/1987	12/02/1973	20/06/1888		
TFyRoMacedonia					08/09/1991		
Malta		30/05/1985	05/02/1987	20/01/1995	21/09/1964		
Moldova			19/05/1994 : A		02/11/1995		
Netherlands	06/02/1979	13/04/1983	29/04/1985	23/05/1973	01/11/1912		
Norway	30/12/1986	10/05/1983	24/02/1984	12/02/1973	13/04/1896		
Poland			20/12/1991 : A	15/12/1993	28/01/1920	29/12/1989	
Portugal		28/09/1982	17/12/1985	12/02/1973	29/03/1911		
Romania			29/10/1990 : A	07/04/1990	01/01/1927		
Russia			04/07/1994 : A	18/07/1991	13/03/1995		
San Marino		28/09/1982	07/03/1985				
Slovakia			09/06/1992 : A		01/01/1993		01/01/1993 : R
Slovenia					25/06/1991		
Spain	07/02/1979	25/11/1983	31/01/1985	12/02/1973	05/12/1887		
Sweden	06/04/1976	28/09/1982	10/01/1984	12/02/1973	01/08/1904		
Switzerland	19/11/1976	18/02/1983	15/07/1985	12/02/1973	05/12/1887	30/09/1993	
Turkey		28/09/1982	18/06/1985	26/09/1974	01/01/1952		
Ukraine		28/09/1982	27/12/1993 : A		25/10/1995		
United Kingdom	28/03/1978		21/02/1985	12/02/1973	05/12/1887		
EEC							
Non Member States							
Belarus			13/12/1994 : A				
Bosnia-Herzegovina			22/03/1993 : A	06/03/1996	06/03/1992		
Croatia			03/12/1992 : A	14/12/1992	08/10/1991		
Hooly See		28/09/1982	20/03/1985	12/02/1973	12/09/1935		
Israel				12/02/1973	24/03/1950		
Monaco		28/09/1982	23/05/1984	12/02/1973	30/05/1889		
Morocco				12/02/1973	16/06/1917		
Tunisia				12/02/1973	05/12/1887		
Other States***							
South Africa				12/02/1973	03/10/1928		
Algéria				12/02/1973			
Argentina				12/02/1973	10/06/1967	29/04/1992	29/07/1992 : A
Australia				12/02/1973	14/04/1928		
Brasil				12/02/1973	09/02/1992		26/06/1993 : R
Canada				12/02/1973	10/04/1928	21/12/1989	
China				16/08/1977	15/10/1992		
Egypt				12/02/1973	07/06/1977	30/04/1993	
India				12/02/1973	01/04/1928	20/04/1989	
Japan				12/02/1973	15/07/1899		
Mexico				12/02/1973	11/06/1967	20/04/1989	27/02/1991 : R
New Zeland				12/02/1973	24/05/1928		
Thailand				12/02/1973	17/07/1931		
USA				12/02/1973	01/03/1989	02/05/1989	

Council of Europe

	European Agreement for the prevention of broadcasts transmitted from stations outside national territories (22 January 1965)				European Convention of Transfrontier Television (5 May 1989)				European Convention on cinematographic co-production (2 October 1992)				European Convention relating to questions on copyright law and neighbouring rights in the framework of transfrontier broadcasting by satellite (11 May 1994)			
	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D
Member States of Council of Europe																
Albania																
Andorra																
Austria					05/05/89				09/02/89	02/09/94	01/01/95	D				
Belgium	22/01/65	18/09/67	19/10/67													
Bulgaria																
Chypre	08/12/70	01/09/71	02/10/71		03/06/91	10/10/91	01/05/93	D					10/02/95			
Czech Republic																
Denmark	22/01/65	22/09/65	19/10/67						02/10/92	02/10/92	01/04/94	D				
Estonia																
Finland					29/11/92	18/08/94	01/12/94	R/D	09/05/95	09/05/95	01/09/95	D				
France	22/01/65	05/03/68	06/04/68		12/02/91	21/10/94	01/02/95	D	19/03/93							
Germany	06/12/65	30/01/70	28/02/70		09/10/91	22/07/94	01/11/94	D	07/05/93	24/03/95	01/07/95	D				
Greece	22/01/65	13/07/79	14/08/79						17/11/95							
Hungary																
Iceland																
Ireland	09/03/65	22/01/69	23/02/69													
Italy	17/02/65	18/02/83	19/03/83		16/11/89	12/02/92	01/05/93	D	29/10/93							
Latvia									27/09/93	27/09/93	01/04/94	D				
Liechtenstein		13/01/77	14/02/77		05/05/89											
Lithuania					20/02/96											
Luxembourg	22/01/65				05/05/89				02/10/92				11/05/94			
TFyRoMacedonia																
Malta					26/11/91	21/01/93	01/05/93	D								
Moldova																
Netherlands	13/07/65	26/08/74	27/09/74	T	05/05/89				04/07/94	24/03/95	01/07/95	D/T				
Norway	03/03/65	16/09/71	17/10/71		05/05/89	30/07/93	01/11/93	R/D					11/05/94			
Poland	11/07/94	10/10/94	11/11/94		16/11/89	07/09/90	01/05/93	D								
Portugal		06/08/69	07/09/69		16/11/89				22/07/94							
Romania																
Russia									30/03/94	30/03/94	01/07/94	D				
San Marino					05/05/89	31/01/90	01/05/93						11/05/94			
Slovakia									05/10/93	23/01/95	01/05/95	D				
Slovenia																
Spain	12/03/87	10/02/88	11/03/88		05/05/89				02/09/94				11/05/94			
Sweden	22/01/65	15/06/66	19/10/67		05/05/89				10/06/93	10/06/93	01/04/94	D				
Switzerland	29/12/72	18/08/76	19/09/76		05/05/89	09/10/91	01/05/93	R/D	05/11/92	05/11/92	01/04/94	D	11/05/94			
Turkey	13/08/69	16/01/75	17/02/75		07/09/92	21/01/94	01/05/93									
Ukraine																
United Kingdom	22/01/65	02/11/67	03/12/67	D/T	05/05/89	09/10/91	01/05/93	D/T	05/11/92	09/12/93	01/04/94	D				
EEC																
Non Member States																
Belarus																
Bosnia-Herzegovina																
Croatia																
Holy See					17/09/92	07/01/93	01/05/93	D	10/02/93							
Israel																
Monaco																
Morocco																
Tunisia																

A : Signature, B : Ratification, C : Entry into force, D : Reservation(R) - Declaration(D) - Territorial Declaration(T)

National

CASE LAW

AUSTRIA: Constitutional court rejects appeal against refusal of broadcasting authorisation

The Austrian constitutional court has held that the appeal of a private television company against the refusal of a broadcasting authorisation was not grounded. The complainant intended operating a television transmitter in the Vienna area, but the application for authorisation was rejected on the grounds that the operation of broadcasting installations required legal authorisation, which had not been obtained. The private television company appealed against this refusal on the grounds of infringement of the freedom to broadcast embodied in the constitution and infringement of the principle of equality. Secondly it claimed that legal provisions contrary to the constitution were being applied. The television monopoly existing in Austria, as emerged from the decision by the European Court of Human Rights in the *Lentia* case, violated Article 10 of the European Convention on Human Rights and was therefore unconstitutional. Since broadcasting legislation allowing the establishment of private television companies had not been enacted, there were no legal grounds for refusal as regarded freedom to broadcast. The constitutional court did not agree with this. It started out from the view that a law was not a barrier but a condition for the admissibility of broadcasting, and then looked at the question of the role of the constitutional court in examining omissions in legislation. It took the view that only a partial omission in the context of existing regulations could be examined. This raised a point of reference making it possible to decide on the effects of an omission. In this case, however, there was total inactivity on the part of the legislator. This could not be taken up by the constitutional court as it could not force the legislator to enact legislation. Thus only a decision of the European Court of Human Rights on non-compliance with the Convention could clarify the matter definitively.

Decision of the Austrian Constitutional Court of 5.3.1996, B 2674/94-11. Available in German from the Observatory.

(Volker Kreuzer
Institut für Europäisches Medienrecht - EMR)

GERMANY: No duty under cartel legislation on the part of operators of community aerial equipment to distribute pay-TV channels free of charge

The German Federal Court (BGH) considers that under cartel legislation there is no duty on the part of operators of community antenna installations to distribute pay-TV channels free of charge. This judgment reverses the decision of a lower court. A duty to distribute free of charge is not deemed to arise merely because operators already receive a fee from those households which are connected to the antenna installation.

Nor does the fact that programmes of other television broadcasters are distributed free of charge justify any other decision. The prohibition of different treatment under cartel law does not come into play where this is either arbitrary or based on purely non-economic considerations.

The BGH has referred the matter back to the lower court, which must now determine whether there is a duty to distribute free of charge from the point of view of media law.

Decision of the BGH on 19.3.1996, KZR 1/95. The text of the decision will be available in German from the Observatory in approximately 8 weeks time.

(Volker Kreuzer
Institut für Europäisches Medienrecht - EMR)

NETHERLANDS: Decision on liability of Internet-providers now available on WWW

In IRIS 1996-4: 3 we reported on a decision of the District Court of The Hague in the Netherlands holding Internet-providers not responsible for wrongful acts of Internet-users. This decision is now available in English and Dutch on the World Wide Web.

URL <http://www.xs4all.nl/~kspaink/cos/verd1eng.html> (English language version); URL <http://www.xs4all.nl/~kspaink/cos/verd1ned.html> (Dutch language version).

LEGISLATION

RUSSIAN FEDERATION: Amendment of copyright legislation

Legislation dated 19.7.1995 has amended the Russian Federation's legislation on copyright and neighbouring rights.

One amendment concerns the wording of Article 11 on the law on copyright which sets out the copyright applicable to authors of anthologies and other collections involving the author's creative work in selecting and compiling material.

The amended Article 35, paragraph 1(4) now specifically includes in the scope of related rights of practising artists the related rights of foreign natural and legal persons where they are acknowledged in international agreements in the territory of the Russian Federation.

Articles 49 and 50 of the copyright law, covering the protection of copyrights and related rights, have also been amended.

Under Article 49, paragraph 3, the holders of exclusive copyright and neighbouring rights can not only claim protection of their rights as before through the appropriate court, court of arbitration or tribunal, but also through an investigating body or the specific research body.

In addition, the procedure for seizing and destroying pirate copies (Article 49, paragraph 4) and the measures for ensuring applications (Article 50) have also been amended.

Law of the Russian Federation on copyright and neighbouring rights, dated 9.7.1993, amended by legislation dated 19.7.1995. Available in German from the Observatory.

(Andrea Schneider
Institut für Europäisches Medienrecht - EMR)

NETHERLANDS: Relaxation Media Act allows local and regional commercial broadcasting

On 2 April 1996 the Dutch Parliament approved the proposed change to the Media Act, which now allows commercial broadcasting local and regional level. This result is attained by removing the limitation that commercial broadcasters have to broadcast nationwide. The new Media Act also renders permanent the up to 1 January 1996 experimental advertising regime, by which the local and regional broadcasters were allowed to broadcast advertisements and keep the advertising income themselves. Furthermore, the modified Media Act appoints the Dutch Media Authority supervisory power in conflicts concerning access to cable networks; the Media Authority now has the power to decide whether, and under which conditions, a broadcaster must be admitted to a cable network. The Media Act grants this power for a limited period only (until 1 July 1996), but the Senate has unanimously carried a motion that requests the Cabinet to extend the supervisory power until a 'fitting replacement' for this mediation has been made in the media- or telecommunications legislation.

Wijziging van bepalingen van de Mediawet in verband met een herziening van de reclameregeling voor de publieke lokale en regionale omroep, het bevorderen van de samenwerking tussen de publieke regionale en landelijke omroep en het toestaan van commerciële omroep op niet-landelijk niveau, Act of 4 April 1996, *Staatsblad* 219. Motie-Glasz c.s., TK 1995-1996, 24336 No 135f.

(Marcel Dellebeke, Institute for Information Law
at the University of Amsterdam)

LAW RELATED POLICY DEVELOPMENTS

BULGARIA: Order of the Council of Ministers on distribution of the assets of the former copyright agency

Order No 155 of the Council of Ministers dated 31.7.1995 has settled the distribution of the assets of the former copyright agency to the newly-founded exploitation companies.

The activity of the former state copyright agency (JUSAUTOR) was wound up by section 8 (on transfer and final conditions) of the Bulgarian law on copyright and neighbouring rights of 16.6.1993, which came into force on 1.8.1993.

Under Section 8, paragraph 3, of the Bulgarian copyright law (transfer and final provisions), the Council of Ministers was empowered to decide on the conditions and the procedure for distributing the assets of the copyright agency among the general administrative organisations to be set up in accordance with Article 40 of the law.

To be included in the distribution procedure, the newly-founded exploitation companies must apply in writing under specific conditions. Distribution will then be carried out according to coefficients set out by decree.

Council of Ministers Order No 155 dated 31.7.1995 on acceptance of the decree on the conditions and procedure for distributing the assets of the copyright agency, published in *Darzan Vestnik* no.70, dated 8.8.1995, p.2. Law on copyright and neighbouring rights dated 16.6.1993, published in *Darzan Vestnik* no.56, dated 29.6.1993. Available in English and German from the Observatory.

(Andrea Schneider
Institut für Europäisches Medienrecht - EMR)



PORTUGAL: Approval of terms and procedures of selective financial support to feature film production

As reported in IRIS 1995-7: 7, Portugal made far-reaching amendments to the legislative framework governing the cinematographic and audiovisual sectors. Amongst other things, a system of selective direct aid was established for feature-film production. The rules are implemented by the Portuguese Institute for Cinematographic and Audiovisual Art (IPACA) on the basis of the terms and procedures that have now been laid down in a statute approved by the Minister of Culture on 23 February 1996.

Aprova o Regulamento de Apoio Financeiro Selectivo à Produção Cinematográfica (Filmes de Longa Metragem) of 23 February 1996, Diário da República I série-B N° 66 of 18 March 1996, pp. 529-532. Available in Portuguese from the Observatory.

(Ad van Loon,
European Audiovisual Observatory)

News

Information on law related policy developments which may have legal consequences but of which no documents or other texts are available yet.

UNITED KINGDOM: ITC assesses independent television

The Independent Television Commission has just published its 1995 Performance Review of the ITV companies. This is an annual exercise. The report deals with three topics; the overall quality assessment of the ITV schedules; economic behaviour of the companies; and the performance of Channel 4. As regards the overall picture, the Commission finds that ITV has lost the balance between entertainment shows (in particular, as regards real-life and fictional crime programmes) and other genres, such as documentary and arts programmes. The Commission is concerned that the distinctive foundation of the network - the regionalisation of companies - was being jeopardised by mergers and co-production deals. Finally, Channel 4 was criticised for over-reliance on American imports and repeats.

1995 Performance Reviews is available in English at the Observatory.

(David Goldberg,
University of Glasgow School of Law)

UNITED KINGDOM: New Taste and Decency Guidelines for BBC programme makers and the V-chip

Views expressed at BBC Governors' Seminar on taste and decency will be incorporated into a revised version of the Corporation's guidelines for programme makers.

The Guidelines' section on taste and decency will see a strong emphasis placed on the importance of the watershed; that is the 9 o'clock boundary between programmes suitable for children to watch and those which are not. It will also reflect concerns about the use of bad language, and the portrayal of sex and violence. The concept of 'respect' as a key issue in determining where the boundaries should lie in issues of taste, sex and language will be emphasised. Producers will be encouraged to ask more detailed questions about the use of stereotypes in comedy, and there will be clearer guidance on the need for careful scheduling (on both radio and television) and signposting of difficult or challenging programmes in both promotional material and on-air-announcements. The new guidelines will be available to programme makers in the summer.

Meanwhile Mrs Bottomly, the National Heritage Secretary, has decided not to legislate for the introduction of the V-chip in the forthcoming Broadcasting Bill. After advice from Dr. Arthur Pober, a senior adviser to the US Government on the implementation of 'V-chip' technology, the Government has decided that the chip 'throws up a number of difficult practical questions'. Not least of these is that the chip would not be effective against programmes imported from Europe. Implementation of the technology would also place a strain on television manufacturers.

Information: BBC; tel. +44-181-7438000, Department of National Heritage; 2-4 Cockspur Street, London SW1Y 5DH, tel. +44-171-2116200.

(Stefaan Verhulst,
University of Glasgow School of Law)



GERMANY: The *Länder* submit the draft of an Agreement on media services

The Minister-Presidents of the *Länder* have agreed in Berlin on the draft of an Agreement between the *Länder* (Federal States) on media services. The draft was submitted to the groups concerned for the first time on 3.3.1996. From January 1997, this would replace the previously applicable Agreement between the *Länder* on interactive videotext. The *Länder* have proposed their own unified regulations for the new services equivalent to the federation's planned legislation on the multi-media.

This would cover all services not included in the Agreement between the *Länder* on broadcasting. Thus the Agreement between the *Länder* on media services includes a comparatively general, non-exhaustive list of services which would fall within its field of application, eg tele-shopping, servers, call-up services and text services.

Specific services in the area of personal communications would be excluded.

The Agreement between the *Länder* provides for an obligation for network operators to contract compared with organisers of media services.

Organisers would be granted basically free access to produce media services. Exceptionally, however, an obligation of notification to an appropriate regional office would apply if the service offered comprised mainly moving images. If the appropriate regional media office believes the service to be significant in forming public opinion in the same way as a broadcast programme within the meaning of the Agreement between the *Länder* on broadcasting, authorisation under broadcasting legislation would also be necessary.

Further provisions refer to payment for, presentation and content of media services.

In keeping with the view that the services covered by the regulations should not be qualified as broadcasting, there are no quantitative requirements concerning advertising and sponsoring in respect of media services, although there are qualitative requirements.

The Agreement between the *Länder* on media services also contains extensive regulations on the right of reply, use of data and data protection.

Supervision of compliance with the provisions of the Agreement and the assumption of specific measures to punish infringements of the law falls to the appropriate regional office, although these are not specifically named in the Agreement between the *Länder*. Supervision does not extend to cover the services offered by public-law broadcasting stations.

(Natali Helberger,
Institut für Europäisches Medienrecht - EMR)

GERMANY: Television rights for football sold to private television broadcaster

The League Committee of the German Football Federation (DFB) has sold the contract with the international sport rights agency ISPR, which has links with the private television transmitter SAT.1, for initial broadcasting rights for federal league football matches until mid-2000 for the sum of approximately DEM 540 million. At the same time, the pay-TV transmitter PREMIERE has acquired broadcasting rights for live coverage up to June 1998.

A more lucrative offer from a bidding consortium consisting of ARD/ZDF and RTL was turned down.

The exclusive sale of television rights for football to the private television broadcaster draws attention to Section 4 of the Agreement between the *Länder* on broadcasting (RuFuStV), which guarantees short coverage free of charge for any authorised television broadcaster in Europe, for its own broadcasting purposes. Section 4 of the RuFuStV corresponds to Article 9 of the European Agreement on transfrontier television, according to which, when exclusive rights are granted, each contracting party must ensure that the right of the public to information on significant events is respected.

The provisions of Section 4 of the RuFuStV are of little relevance to the field of sport. Coverage of football events other than by virtue of exclusive rights takes place on the basis of paying for secondary commercialisation rights or under special agreements with the holders of rights, and is outside the present scope of the framework of short coverage set out in Section 4 of the RuFuStV.

(Wolfgang Cloß
Institut für Europäisches Medienrecht - EMR)

ITALY: New developments in the attribution of football broadcasting rights

On 15 April the Italian Football League revoked the three years assignment of football rights to the Cecchi Gori Group. As reported in IRIS 1996-4: 13, the Cecchi Gori Group, owner of two national terrestrial channels in Italy: Telemontecarlo and Videomusic, acquired the rights for the non-encrypted broadcasting of both domestic and international football games because their offer had been higher than the ones presented by the public broadcaster RAI and the Fininvest Group.

However, after the rights' assignment, the Cecchi Gori Group did not comply with the financial requirements of the contract. In particular, they were not able to deposit within twenty days the required guarantee sum. Consequently, the League accorded the rights to the broadcaster that made the second best offer. This happened to be the RAI. RAI offered 185 billion Lire for the first year (approximately 120 million US dollars), 193 billion for the second year and 202 billion for the third year.

The attorneys of the Cecchi Gori Group announced legal action against the League since, in their view, the assignment in their favour could not be annulled without a formal default action before a court of law. They also contest the *dies a quo* (the starting date) determined by the League to fix the end date of the twenty day period. IRIS will keep you informed on further developments.

(Roberto Mastroianni,
University of Florence, Public Law Department)

AGENDA

Successfully Forming and Managing Alliances and Joint Ventures in Multimedia

6-7 June 1996

Organiser:

Vision in Business Ltd.

Fee: GBP 795.-

Venue: Forte Crest Bloomsbury Hotel, London

Information:

tel. +44 171 4056667,

fax +44 171 4055119

Legal Challenges for Publishers

Copyright, competition and the new technologies

21 June 1996

Organiser: IBC Legal Studies and Services Ltd.

Fee: GBP 385

Venue: The Mayfair Conference Centre, London

Information: IBC, tel. +44 171 4532711/6374383

Rights clearances for television programmes

24 June 1996

Organiser : Hawksmere

Venue : Grosvenor House Hotel, Park Lane, London

Tel : +44 171 824 8257

Fax : +44 171 730 4293

International Corporate Intellectual Property Practice

26 & 27 June 1996

Organiser : European Study Conferences

Venue : The Forum Hotel,

London

Fee : £763.75

Tel : +44 171 386 9322

Fax : +44 171 381 8914

France - Etats-Unis : Vers de nouveaux partenariats audiovisuels ?

27 June 1996

Organiser : NATPE Educational

Foundation and the DESS de

Droit et d'Administration de la

Communication Audiovisuelle de

l'Université de Paris I - Panthéon-Sorbonne

Venue : Amphithéâtre LIARD -

17, rue de la Sorbonne,

75005 Paris

Tel : +33 1 44 32 09 80

Fax : +33 1 44 32 09 84

Internet Security

26-28 June 1996

Organiser: IBC Technical Services

Fee: GBP 1097

Venue: Royal Lancaster Hotel, London

Information: IBC,

tel. +44 171 4532700,

fax +44 171 6361976

Multimedia and the Internet global challenges for law

27 & 28 June 1996

Organiser : Internationa

Federation of Computer Law

Associations

Venue : Management Centre

Europe, Brussels

Fee : BEF 16.000

Tel : +32 2 543 23 41

Fax : +32 2 543 24 15

Law on the Internet

4 July 1996

Organiser : IBC Technical Services

Venue : Britannia Intercontinental Hotel, London

Tel : +44 171 453 2700

Fax : +44 171 636 1976

Information Highway

6 July 1996

Organiser: Schweizerische Vereinigung für Urheber- und Medienrecht (SVUM)

Fee: Sfr. 250.-

Venue: BEA Bern Expo, Bern

Information: SVUM,

Frohburgstrasse 116, CH - 8057

Zürich, tel. +41 3224802

Cyberspace :

Advantage Europe ?

6, 7 & 8 November 1996

Organiser : IDATE

Venue : Palais des Congrès Le

Corum, Montpellier, France

Tel : +33 67 14 44 10

Fax : +33 67 14 44 00

Contrats de

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11 June 1996

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