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EDITORIAL

## Free publicity for persons and organisations contributing to IRIS !

The reactions to the first issue of "IRIS - Legal Observations of the European Audiovisual Observatory" were overwhelming and very positive. IRIS definitely has a niche in the market of legal information, which encourages the members of the editorial board to continue along the plan of action chosen.

Amongst the comments that you sent us were many detailed suggestions for improvements, for which we would like to expressly thank you. We will study all suggestions and will gradually adapt IRIS to the needs you expressed so as to make IRIS suit even more to your needs.

We are especially grateful for the letters received from practising lawyers with a special interest in the audio-visual sector, offering their assistance in providing the editor of IRIS with information on interesting case law. Indeed we would be very grateful if they did so.

In order to stimulate other practising lawyers in law firms, courts of law, production and distribution companies, film and broadcasting organisations as well as officials of media authorities, tax or competition authorities and government officials to contribute to IRIS, we will publish, as from this issue, the name and organisation of persons providing a short abstract together with the original document on which the abstract is based, immediately under the abstract as well as in the colophon on page 2.

Those who contribute by sending information material on relevant law-related policy developments, texts of laws and interesting case law, will also be mentioned by name and organisation, but only in the colophon on page 2. We welcome abstracts in either English, French or German however, we do not mind if the document on which the abstract is based, is written in another language, as long as we receive it together with the abstract.

I hope that you will find this issue of IRIS as informative as (or even more informative than) issue number 1 and please, if you have any further suggestions, comments or contributions to make, please do not hesitate to contact me.

Ad van Loon  
IRIS Co-ordinator

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## WIPO

### Discussions on a possible Protocol to the Berne Convention

Since November 1991, a Committee of Experts established by the World Intellectual Property Organisation (WIPO) has been discussing a possible Protocol to the Berne Convention for the Protection of Literary and Artistic Works to clarify the existing, or to establish new, international norms where, under the present text of the Berne Convention, doubts may exist as to the extent to which the Convention applies.

Since 1991, the Committee of Experts has met four times, the latest meeting being 5-9 December 1994. The subjects discussed concerned:

- computer programmes;
- data bases;
- rental right;
- non-voluntary licenses for the sound recording of musical works;
- non-voluntary licenses for primary broadcasting and satellite communication;
- distribution right, including importation right;
- duration of the protection of photographic works;
- communication to the public by satellite broadcasting;
- enforcement of rights; and
- national treatment

**For the December meeting, the International Bureau of WIPO prepared a document containing a draft memorandum plus the comments on the draft by different States and the Commission of the European Communities. This document is available in English through the Observatory.**

### Discussions on a possible new instrument on the protection of the rights of performers and producers of phonograms

Since November 1991, the World Intellectual Property Organisation (WIPO) has also been discussing a possible new instrument on the protection of the rights of performers and producers of phonograms. The first two rounds of discussions on this issue took place in the framework of the Committee of Experts on a Possible Protocol to the Berne Convention for the Protection of Literary and Artistic Works, after which it was decided that there should be a separate Committee of Experts on the Protection of the Rights of Performers and Producers of Phonograms.

This new Committee met twice in 1993 and has held its latest session from 12-16 December 1994 on questions concerning such an instrument.

**A draft memorandum for the meeting prepared by the International Bureau of WIPO, to which the point of view of the Commission of the European Communities is annexed, is available through the Observatory in English.**

## European Union

### Court of First Instance ruling in copyright and competition case

In February 1986, a representative of a number of French discotheque operators lodged a complaint with the Commission of the European Communities. The complaint alleged that copyright societies in different Member States shared the market among themselves. The individual national societies would have concluded reciprocal representation contracts under which they were prohibited from dealing directly with users established in other Member States. Moreover, it was alleged that the royalties charged by the French copyright society, SACEM, were excessive and that SACEM refused use of its foreign repertoire on its own, thus forcing users to acquire the entire French and foreign repertoire.

Following the complaint, the Commission started an investigation focussing on the royalty rates in Member States. The Commission found that royalty rates in France and Italy were indeed much higher than in other countries and that the reasons given by SACEM to justify such rates were not entirely convincing. Despite this, the Commission rejected the applicant's complaint in January 1992 because it had found no basis for concluding the conditions for the application of Article 86 EEC (prohibiting the abuse of a dominant position) were fulfilled and because no Community interest was involved in the complaint: the alleged practices were regarded as essentially national.

The applicant then asked the Court of First Instance to annul this Decision of the Commission. The Court found that the Commission had provided insufficient arguments for rejecting the applicant's claim insofar as it rejected the allegation that the market had been partitioned in breach of Article 85 EEC (prohibition of cartel agreements and concerted practices). The Court also held that the applicant did not have a right to require a Decision of the Commission on SACEM's pricing practices. Finally, the applicant's claim that the Commission's Decision resulted from an error of law and a clear error of appraisal, was rejected because this appraisal, according to the Court, was not justified on the evidence.

**Case T-114/92 of 24.01.95, B.M.E.M.I.M. v Commission of the European Communities. Available in English, French and German through the Observatory**



#### Europe Agreement with Bulgaria

On 18 December 1994, the European Council and the Commission of the European Communities drew up a joint agreement to set up an association between the European Communities and their Member States and Bulgaria. When it comes into force, this collaboration agreement, as provided for in Article 124, will replace the Agreement on business and economic co-operation and trade signed in Brussels on 8 May 1990 between the European Economic Community and the Republic of Bulgaria.

Some of the objectives of the association include the gradual setting-up of a free-trade area between the Community and Bulgaria as well as creating a sound basis for economic, financial, cultural and social collaboration. This will allow Bulgaria to obtain support for the development of its market economy and to be slowly integrated into the Community.

Economic collaboration has been promoted in Article 83 of the association agreement which contains measures dealing with telecommunications and postal services. It is hoped that co-operation will consequently be strengthened and deepened by information exchange on technological and political subjects, the transfer of technology and know-how, joint projects and the introduction of European standards. Activities have been concentrated above all on drawing up and implementing policies for promoting a market economy, legal and administrative regulations and procedures and modernising the Bulgarian telephone network with a view to integrating it into the European and international networks.

Article 92 of the agreement lays down an obligation to exchange information and develop audio-visual services. It is planned for Bulgaria to take part in Community projects on media programmes and in suitable EUREKA programmes. As for regulations governing cross-border radio and television broadcasts, the two parties plan to co-ordinate and, if necessary, bring their policies into line with each other concerning technical audio-visual standards and the further development of European audio-visual techniques.

Even cultural collaboration in the film-making and selling field will be promoted and rendered easier, in line with Article 98 jo. 92.

**Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, OJ No L 358 of 31.12. 1994: 3-204.**

(Andrea Schneider - *Institut für Europäisches Medienrecht*)

#### Europe Agreement with Romania

On 19 December 1994 the Council and the Commission approved the Europe Agreement between the EC and Romania. The objectives of the association include promotion of the expansion of trade and provide a framework for Romania's gradual integration into the Community. In the area of telecommunications and broadcasting, the parties will expand and strengthen cooperation, which entails the exchange of information on telecommunications and broadcasting policies, transfers of technology and the promotion of new communications facilities, services and installations, particularly those with commercial applications. Priority will be given to the modernization of Romania's telecommunications network and broadcasting services.

**Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, OJ of 31.12.94 No L 357: 2-173.**

#### Europe Agreement with the Slovak and Czech Republics

By decision of 19 December 1994 the Council and the Commission approved the Europe Agreements establishing an association between the European Communities and the Czech Republic, and an association between the EC and the Slovak Republic.

The objective of the Agreements is, *inter alia*, the expansion of trade, the promotion of economic relations and the provision of a basis for the Community's financial and technical assistance to the Czech Republic and the Slovak Republic. In the field of telecommunications, the parties will extend and strengthen their cooperation; to this end there will be an exchange of technical and other information, transfers of technology and a promotion of new communications services and facilities, particularly those with commercial applications. With regard to information and communication, the Community and the Republics will take steps to stimulate effective mutual exchange of information.

**Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part , OJ of 31.12.94 No L 359: 2-201.**

**Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part , OJ of 31.12.94 No L 360: 2-201.**

#### Council Resolution on telecommunication Green Paper

In a Resolution of 22 December 1994, the Council of the European Union has welcomed the submission of Part One of the Green Paper on the liberalization of telecommunications infrastructures, and recognized the principle that the provision of telecommunications infrastructures should be liberalized by 1 January 1998. The Council requests the Commission to report to the European Parliament and the Council on the results of the consultation of the interested parties, and requests to prepare and to propose, before 1 January 1996, the amendments which should be made to the Community regulatory framework.

**Council Resolution of 22 december 1994 on the principles and timetable for the liberalization of telecommunications infrastructures, OJ of 31.12.94 Nr. C 379: 4-5.**



### Council Resolution on the Community's satellite communications policy

In a Resolution of 22 December 1994, the Council of the European Union underlined that efforts should be undertaken to ensure the future of the strategically important sector of satellite communications. The Council identifies as basic goals for further developments of the satellite communications policy, *inter alia*, non-discriminatory access and urgent adjustment of the intergovernmental satellite organisations (such as Eutelsat, Intelsat and Inmarsat) in the light of the Community's regulatory framework and market requirements. As guiding principles for this adjustment are stated: the strict separation of all regulatory and operational aspects, non-discrimination and transparency. The Council invites the Member States to assist each other and to cooperate closely in implementing the mentioned basic goals.

**Council Resolution of 22 December 1994 on further development of the Community's satellite communications policy, especially with regard to the provision of, and access to, space segment capacity, OJ of 31.12.94 Nr. C 379: 5-7.**

### Two studies and a questionnaire to launch second round of consultations on pluralism and media concentration

In the second half of January, the Commission of the European Communities has started distributing the results of two studies which it commissioned at the end of 1993.

The first study concerns "Transparency of Media Control" and was performed by the European Institute for the Media in Düsseldorf (Germany) together with national correspondents from the States studied. These States are Germany, Spain, France, Italy, the Netherlands and the United Kingdom.

The second study was performed by the GAH GROUP and concerns "Audience measurement".

Together with a questionnaire, the third one in a row on the subject, the studies are being sent to all interested parties that sent in contributions in response to the first two questionnaires and will also be sent to all other interested parties on request. The questionnaire is currently only available in English and French, but the other 9 languages of the European Union will follow shortly.

With this action, the Commission opens the second round of consultations on the subject of pluralism and media concentration, which was announced in its Communication to the Council and the European Parliament of 5 October 1994 on the follow-up to the concentration process relating to the Green Paper on "Pluralism and media concentration in the Internal Market" (see IRIS 1995-1: 7).

Both studies and the questionnaire can be ordered directly from the Commission's Directorate General XV, Office C107 06/072, Rue de la Loi 200, B-1049 Brussels, Ph.: +32 2 2960110 (direct) or +32 2 2991111 (switchboard).

## National

### ITALY: Statutory Order implementing EEC Directive on rental and lending rights and certain rights related to copyright

By Statutory Order of 16 November 1994, Italy finally implemented Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and certain rights related to copyright in the field of intellectual property. The Directive obliges the EC Member States to give right owners the exclusive right to prohibit or permit the rental or lending of their films on video tapes, CD's, books and certain works of art. Member States may restrict this exclusive right for public lending purposes in which case they are required to provide for payment of a reasonable compensation to the right owners: the authors and the performing artists.

As regards 'certain rights related to copyright', the Directive regulates the rights to record, to reproduce, to broadcast and to distribute protected works. Member States may restrict these rights, for example, to allow private use or use for educational or scientific purposes.

The Directive also contains some rules on the duration of the protection and was to be implemented in the national laws of the Member States of the European Union by 1 July 1994 (partly by 1 January 1995).

**Decreto Legislativo of 16.11.94, No 685, Attuazione della direttiva 92/100/CE concernente il diritto di noleggio, il diritto di prestito e taluni diritti connessi al diritto d'autore in materia di proprietà intellettuale. Available in Italian at the Observatory.**

### BELGIUM: Policy paper on the future of media policy in the Flemish Community

On 6 December 1994, the Media Commission discussed a White Paper of the Flemish Council on the future of broadcasting in the Flemish Community. The points of view of the members of the Commission as well as those of the Flemish Minister of Culture have now been published. Their point of view also takes into account the possible influence of European developments on Flemish media policy.

During the debate, the Minister proposed to establish four working parties on the restructuring of the media landscape:

- (I) the restructuring of the public broadcaster of the Flemish Community, BRTN;
- (II) local radio broadcasting;
- (III) exclusivity rights and the freedom of news gathering;
- (IV) cable operators.

The idea is that the working parties submit a final report of their work around Easter so that the new rules can be drafted before the Summer holidays.

**"Beleidsnota: "Een toekomstperspectief voor het mediabeleid van de Vlaamse Gemeenschap", Verslag namens de Commissie voor de Media uitgebracht door de heren F. Sarens en G. Versnick, Vlaamse Raad, Zitting 1994-1995, 6 December 1994, Stuk 618 (1994-1995) - Nr. 2. Available in Dutch at the Observatory.**



## BELGIUM: VT4 access to the Flemish cable networks - Part 2

On the basis of the Cable Decree of 4 May 1994, the Flemish Minister of Cultural Affairs, Mr. H. Weckx has, by Ministerial Order (*Ministerieel Besluit*) of 16 January 1995, banned the distribution of VT4 by Flemish cable networks.

VT4 is a private commercial broadcasting organisation, which broadcasts from the United Kingdom television programmes which are specifically aimed at Vlaanderen (the Flemish Community of Belgium) since 1 February of this year.

The Minister refused VT4 access to the Flemish cable networks, firstly, because he considers VT4 to be a Flemish broadcasting organisation which established itself in the UK to circumvent Flemish law. Secondly, the Minister argued that the British authorities are not able to effectively supervise VT4's Dutch-language broadcasts.

In the meantime, Minister Weckx's Order has been suspended provisionally by a decision of the President of the 'Administration' Department of the State Council. According to the decision, the Ministerial Order is contrary to the EEC's 'Television without Frontiers' Directive of 3 October 1989 as well as to the provisions concerning the freedom of movement of services in the EEC Treaty (Article 59 jo. 56).

On 14 February 1995, the State Council in plenary session was to assess the suspension of the Ministerial Order of 16 January. The result will be reported in IRIS 1995-3. The cable networks started to distribute VT4 on 1 February.

In the meantime, the Commission of the European Communities has, in accordance with Article 169 of the EEC Treaty, brought before the Court of Justice of the EC an action against the Kingdom of Belgium to have a number of provisions in the Flemish Cable Decree of 4 May 1994 declared contrary to the provisions of the 'Television without Frontiers' Directive.

**President of the 'Administration' Department of the State Council (Voorzitter van de IVde kamer van de Raad van State, afdeling Administratie), decision of 24 January 1995, Nr. 51.274 in Case A.61.900/IV-14.939. Available in Dutch through the Observatory.**

(Prof. Dirk Voorhoof -

Media Law Section of the Department of Communication Sciences of the State University of Ghent)

## FRANCE: New Cable Decree

On 24 January 1995, the French government issued a Decree fixing the rules applicable to different sound radio broadcasting and television services distributed by cable.

The new rules, based on Articles 33 and 34,1 of the 1986 Freedom of Communications Act (*Loi relative à la liberté de communication*) amend Decree No 92-882 of 1 September 1992.

Firstly, the Decree declares the rules on advertising and sponsoring for private sound radio broadcasting services by means of terrestrial transmitters or by satellite, will now also apply to sound radio broadcasting services which are distributed by cable.

Secondly, teleshopping activities are defined and restricted from the point of view of consumer protection and the protection of minors. Television broadcasting services which do not fall under the definition of a teleshopping service, can offer a teleshopping service for a maximum of one hour per day.

Thirdly, the Decree stipulates that broadcasting services intended only for the national territory and which can neither directly nor indirectly be received in one or more other Member States of the European Union, may broadcast a daily average of 12 minutes of advertising per hour of broadcasting but not more than 15 minutes for each hour.

Fourthly, television services distributed by cable are to respect the strict quota rules concerning the broadcasting and advertising of cinematographic works whilst at the same time respecting the hours during which the broadcasting of cinematographic works is prohibited. The Decree also stipulates which percentage of the turnover of the television services distributed by cable is to be used for the acquisition of broadcasting rights of cinematographic works.

Furthermore, certain transnational broadcasting services are excluded from the obligation under French broadcasting law to reserve at least 40% of the annual amount of broadcasting time devoted to the broadcasting of audio-visual works, for audio-visual works of French origin (*d'expression originale française*).

Finally, certain rules of French broadcasting law are declared applicable to broadcasters from other countries distributed on French cable networks. Which rules apply to which broadcasters from which countries, depends on whether or not the country concerned is a Member State of the European Union, a Party to the European Economic Area Agreement, a Party to the European Convention on Transfrontier Television or a country to which none of these European organisations or treaties relate.

**Décret n° 95-77 du 24 janvier 1995 portant modification du décret n° 92-882 du 1<sup>er</sup> septembre 1992 pris pour l'application des articles 33 et 34-1 de la loi n° 86-1067 du 30 septembre 1986 relative à la liberté de communication et fixant le régime applicable aux différentes catégories de services de radiodiffusion sonore et de télévision distribués par câble (Decree No 95-77 of 24 January 1995 modifying Decree No 92-882 of 1 September 1992 on the application of Articles 33 and 34-1 of Law No 86-1067 of 30 September 1986 concerning the freedom of communication and fixing the regime applicable to different categories of sound radio and television broadcasting services distributed by cable), Journal Officiel de la République française du 25 janvier 1995: 01339-01342. Available in French at the Observatory.**

#### GERMANY: A study paper on the reform of public service broadcasting

A study paper has just been published by the states of Bavaria and Saxony which reflects on structural reform in public service broadcasting.

The paper's main demand is the strengthening of the special interest programmes of the regional broadcasters to the detriment of the national ARD-programme for the general public. According to the paper a reform of this type is needed for two reasons: Firstly, the very necessary wide range of programs and interests, seen as an integral part of the ARD, has to be re-established and, secondly, costs must be reduced and yet be able to cover the needs of a basic service.

Over the last 30 years, the paper claims, the ARD has developed a structure similar to that of a large group in which the majority of the regional broadcasters function automatically as subsidiaries of the ARD. The WDR (Westdeutscher Rundfunk) has taken on the role at the head of this group which is nonetheless either controlled centrally by the ARD or at least under its direction. The federal state principle of multiplicity, supposedly represented by the merger of regional broadcasters, is said to have been undermined. In recent years, stations providing better services have been anxious to counter this development by strengthening the position of their regional programmes. Consequently, a number of regional broadcasters is now offering general programmes of which an increasing number can be picked up throughout the whole of Germany. This development has led, it is claimed, to increased costs and also to a widening in the range of programs on offer going over and beyond a basic service.

According to the paper, a reform of the ARD would call for the important role of the regional broadcasters to be reinforced and for preference to be given to the variety of programmes on regional stations rather than to the ARD's general national programme simply because variety must be maintained. Along with this, individual regional stations will have to merge to form stations with a well-balanced company structure which necessitate no financial adjustments. Such a reform of the ARD must also attempt to restore directors' responsibility and control through company channels. These, it is claimed, are currently being undermined by "company dependence on programme planning".

**Study paper on structural reform of public-service radio, states of Bavaria and Saxony, a photocopied German language version is available from the EAO.** (Volker Kreuzer - *Institut für Europäisches Medienrecht*)

#### ITALY: Constitutional Court allows three referendums on the "Mammi" Law

On 11 January 1995, the Italian Constitutional Court has declared admissible, three referendums on Law N. 223 of 6 August 1990 governing public and private broadcasting in Italy (known as the "Mammi" law). Following this decision, the Italians will be asked to vote on the following three questions:

1. Should any private body holding a licence for national broadcasting be only allowed to run a single channel? - 2. Should there be no advertising breaks in films shown on television? - 3. Should there be a prohibition for advertising organisations to obtain revenue from more than two national channels?

The referendums are due to be held next Spring.

**Corte Costituzionale, Sentenza 11-12 January 1995, N. 8, Gazzetta Ufficiale della Repubblica Italiana, 18 January 1995, 1° Serie speciale n° 3: 61-65. Available in Italian at the Observatory.**

(Armando Rinaldi - Head of the Secretariate of the *Garante per la radiodiffusione e l'editoria* in Italy)

#### ROMANIA : New law governing the public audio-visual sector

The law passed by the State of Romania on 18 June 1994, governing the public radio and television service has finally brought the country into line with the provision laid down two years previously by the "law on the audiovisual sector", n° 48/1992. This decision has finally brought to an end a long political-legal battle, marked by a series of hunger-strikes, street demonstrations and interpellations by international organizations.

The provisions of the new law satisfy most of the demands made by those wanting the sector to enjoy political independence. The law also lays down a number of measures aimed at programming: respect for democratic values, guarantee of pluralism of opinions, ban on inciting racial or religious hatred, the obligation to reserve a certain amount of air time for political parties with parliamentary representation and for the 14 national minorities, the granting of a right of reply or rectification of statements made, the need to promote Romanian audiovisual programmes (a minimum of 40% of the overall programming), etc.

The specialist staff, hitherto hidebound by an incompatible set of regulations, is now protected by new statutes designed to prevent any outside interference in the editorial process.

However, the real change brought about by the new law is the changeover from a state-run radio and television into two autonomous public bodies: the "Romanian Radio Corporation" and the "Romanian Television Corporation". The bodies will be financed mainly through a licence fee, with advertising only being allowed under strictly defined conditions and State financing being subjected to highly controlled conditions of payment.

The real cornerstone of the new autonomy measures is the clean break that has been made between the radio and television authorities and the political executive. The 13 members of the Board of Trustees of each independent Corporation will be nominated by Parliament from a list of names chosen mainly by the parliamentary groups, the "specialist staff" of the Corporations and by organizations representing national minorities. The Presidents of the Boards of Trustees will be the real Heads of the public audiovisual service, even if their powers remain regulated by the law, in order to avoid any abuse of power.

It is also encouraging to see that the law also stresses the need for this new "autonomous public service" to comply both with the international conventions signed by the State of Romania and with the standards laid down by the regulatory authority, the National Audiovisual Council (N.A.C.).

Despite the considerable progress made, there have been a number of voices raised expressing regret over the fact that the "Boards of Trustees" are not nominated by the N.A.C. and the ambiguity of certain parts of the law ("the audiovisual programmes must give young people instructive programmes of an educative, moral-religious and patriotic nature").

**"Lege privind organizarea si functionarea Societatii Române de Radiodifuziune si Societatii Române de Televiziune (Law of 18 June on the public audiovisual service) "Monitorul Oficial" n°153:1-14. Available from the Observatory in Romanian.**

(Nicolas Pélissier - *Centre National de la Recherche Scientifique* in France)

#### RUSSIAN FEDERATION: Draft Statute on State support for the Mass Media - Part 2

In IRIS 1995-1 we reported on a draft Statute on State support for the Mass Media in the Russian Federation. Now we can add that the State Duma approved the Bill in November 1994 after three readings, but that it was then rejected by the upper house, The Council of the Federation on 9 December 1994. The original text was published in *Rossiyskaya gazeta* of 2 November 1994.

#### UKRAINE: Restructuring of State broadcasting

On 3 January 1995, the ownership of all national radio and television broadcasting channels in Ukraine, which have always been owned by the State, was transferred to two new entities: the National Television Company and the National Radio Company. Together with the State's television and radio broadcasting companies of the 24 regions (*oblasti*), of the Autonomous Republic of Crimea, and of the cities of Kiev and Sebastopol, their activities are monitored by the State Television and Radio Broadcasting Committee of Ukraine (*Derzhtele-radio*), a governmental department.

*Derzhtele-radio* is actually a translation of the Russian word *Gosteleradio*, that used to denote the State monopoly in radio and television broadcasting in the former USSR.

This association was also made in the Ukrainian press. In a reaction, Zinovy Kulik, Head of the Committee, assured however, that the re-established entity would not interfere with or censor the activities of journalists. Kulik is not new in the business. He was the vice-president of the National Television and Radio Broadcasting Company until October 1994, when he was fired by the President of Ukraine.

After the dissolution of the National Television and Radio Broadcasting Company on 3 January 1995, Kulik, who is considered to be an expert in television matters, was given another chance.

Nowadays, the President of Ukraine has the power to appoint the Chairman of *Derzhtele-radio* as well as those who preside over the two newly established national broadcasting companies. The Heads of the regional television and radio broadcasting companies are to be chosen by *Derzhtele-radio*, for which choice the consent of the regional executive councils is needed.

The Decree puts an end to the recently established independence of Crimean television and radio from Kiev, which is presently administered by the autonomous but Russia-oriented government.

Under the Decree of the President of Ukraine, the control over the Radio Broadcasting, Radio Communication and Television Concern, which holds the monopoly on broadcasting frequencies and broadcasting transmitters, has been transferred from the Ministry of Communications to that of *Derzhtele-radio*. The result is that the national State broadcasters will save 18% of their budget which previously had to be paid to this State-owned but profit-driven Company in return for the right to use communication lines and transmitters. The result may also be that emerging non-State broadcasters will have difficult times, since *Derzhtele-radio* may be expected to support the State broadcasters and may therefore be tempted to impose special expensive access rates upon their competitors or to refer to "technical difficulties" to prevent them from attracting too much of the audience's attention.

**Decree of the President of Ukraine of 3 January 1995 on Improvement of the System of Administration of the State Television and Radio Broadcasting of Ukraine, published in Hovoryt i pokazuye Ukraina of 12 January 1995. Available in English at the Observatory and in the Ukrainian language through the Observatory.**

(Andrei Richter - Faculty of Journalism, Moscow State University)

#### UNITED KINGDOM: Bi-lateral Film Co-Production Treaty signed

On 8 November 1994, a new co-production agreement between France and the United Kingdom was signed in Paris following the initial meeting of the Mixed Commission in London in March 1993. The new Agreement updates the 1965 Treaty, which was modified and prolonged by several exchanges of notes. The Agreement is not yet in force.

The key objective of the revision of the Treaty is to achieve greater flexibility, given current film production practices. For example, provisions permit third country producers to take part in co-productions under the Agreement and 'participation' now extends to making a financial contribution only, instead of - as formerly - a creative and technical input.

There are seven bilateral film co-production treaties in force between the United Kingdom and Australia, Canada, France, Germany, Italy, Norway and New Zealand. In addition, the United Kingdom is party to the Council of Europe Convention on Cinematographic Co-production.

**Film Co-Production Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic; Cm 2697. Available through Her Majesty's Stationary Office or the Observatory.**

(David Goldberg, School of Law, University of Glasgow)

#### UNITED KINGDOM: Adjudication by the Advertising Standards Authority on complaints against BSKyB

The Advertising Standards Authority received 167 complaints nationwide concerning a poster for the film *Indecent Proposal* to be broadcast by BSKyB. This featured a photograph of a woman's body between waist and thighs clad only in briefs with the headline '*The Price is Right So They Come On Down*' (an adaptation of the title and catchphrase of a popular game show); the complaints considered the poster to be tasteless and offensive. The film in question concerned the payment of \$1 million to a husband for a night with his wife.

The complaints were upheld. The Authority noted that the advertisement had attracted a large number of complaints from members of the public who had been deeply offended, and considered that the advertisers had seriously misjudged the reaction to this treatment of a delicate subject. The Advertising Company was asked to take greater care with any similar approach in future and was advised to consult the Authority about other potentially controversial advertisements.

**Advertising Standards Authority Monthly Bulletin, January 1995, no. 44, p. 5. Information from the Advertising Standards Authority Limited, 2 Torrington Place, London WC1E 7HW, tel. +44 171 5805555, fax +44 171 6313051.**

(David Goldberg, School of Law, University of Glasgow)





**UNITED KINGDOM: New advertising and sponsorship rules**

The British Codes of Advertising and Sales Promotion have recently been amended by the Committee of Advertising Practice (CAP). The CAP (comprising 22 trade associations and professional bodies representing the advertisers, agencies and all aspects of the media) devises the Codes, provides a range of sanctions and pre-publication copy advice.

The new Codes, the first revision since 1988 and drawn up after consultation with over 150 organisations, reflect the basic principles that were drawn up originally in 1961: that advertisements be legal, decent, honest and truthful; be prepared with a sense of social responsibility to consumers and society; and that they should respect the principles of fair competition generally accepted in business.

The Codes are extended to regulate all non-broadcast interactive media. Newly addressed in the Codes are: advertising of confectionary to children; environmental issues; irresponsible driving; slimmer's diseases; celebrity endorsement of medicines. The rules on decency have been framed to discourage negative references to sex, sexual orientation, race, religion or disability.

**British Codes of Advertising and Sales Promotion 1995. Available from The Advertising Standards Authority, 2 Torrington Place, London WC1E 7HW, tel. +44 171 5805555, fax: +44 171 6313051.**

(David Goldberg, School of Law, University of Glasgow)

**UNITED KINGDOM: ITC publishes new rules on advertising of food, slimming products and pharmaceutical products**

On 1 February 1995, the Independent Television Commission (ITC) published a number of amendments to the ITC Code of Advertising Standards and Practice. These amendments concern the advertising of food, slimming products and pharmaceutical products. They have immediate effect.

The rules on food advertising have been reviewed in the context of the government's 'Health of the Nation' White Paper. As a result, the new Code outlaws, *inter alia*, health claims that are not fully substantiated. The section governing the advertising of slimming products has been introduced in response to a rapidly expanding market sector accompanied by widespread public concern about eating disorders. In particular, the new rules make it clear that slimming products may not be targeted at children or adolescents. The rules governing the advertising of pharmaceutical products have been updated to take account of recent legislation implementing European Union legislation on over the counter (OTC) medicines including homeopathic products.

**ITC Code of Advertising Standards and Practice; Appendix 3: Medicine, Treatments, Health Claims, Nutrition and Dietary Supplements. Available at the Observatory.**

**UNITED KINGDOM: Creating the Superhighways of the Future**

The President of the Board of Trade presented the considerations of the Government on issues raised by convergence, the development of multimedia and the scope for creating new broadband applications. The Paper also responds to the Report of the Trade and Industry Select Committee optical fibre networks.

Three related issues, in particular, are examined: the potential public and private sector uses for emerging communications networks, in the light of the ten areas for application highlighted by the Bangemann Report (May 1994); the role of the regulatory framework for the telecommunications industry in providing for the development of the underlying broadband networks; and the role of the Government in regulation, the promotion of successful and competitive telecommunications companies, the delivery of efficient services to the general public, the enhancement of the overall competitiveness of the whole economy and the rapid delivery of entertainment services to unfranchised parts of the United Kingdom.

The Government conclusions broadly are that:

- the existing regulatory framework (based on the 1991 White Paper) continues to provide the best framework for the provision of internationally competitive communications in the UK;
- the new local delivery franchises for broadcasting services should continue to be awarded on an exclusive basis. However, the Government is keen to see to Public Telecommunications Operators (PTOs) bid for such franchises, and would seek to license franchises in such a way to permit PTOs to test new technologies alongside existing services;
- the Government is to place more emphasis on its own use and promotion of communications applications; and
- the Parliamentary Under Secretary for Trade and Industry is to have a new, co-ordinating role in order to focus the Department of Trade's interests in multimedia services. A group of senior industrialists will offer advice.

**Creating the Superhighways of the Future: Developing Broadband Communications in the UK; Cm 2734. Available through Her Majesty's Stationary Office, the Observatory and via the Internet using URL:<http://www.open.gov.uk/dti/broadband-comms.htm> AND via anonymous FTP from: [ftp.open.gov.uk/dti/](ftp://open.gov.uk/dti/)**

(David Goldberg, School of Law, University of Glasgow)

## News

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

### **COUNCIL OF EUROPE: New terms of reference for the Steering Committee on the Mass Media (CDMM) and its subordinate bodies**

On the basis of the Declaration adopted by the Heads of State and Government at their Summit in Vienna in October 1993, the orientations provided at the 4th European Ministerial Conference on Mass Media Policy (see IRIS 1995-14), and within the framework of the annual Intergovernmental Programme of Activities, the Ministers' Deputies adopted new terms of reference for the Council of Europe's Steering Committee on the Mass Media (CDMM) and its subordinate bodies, last January.

The CDMM is given the assignment to work out concerted European policy measures and appropriate legal and other instruments to address the issues raised notably by the functioning of the media in a democratic society, media and conflict, media and intolerance, while bearing in mind the need to develop media activities which advance the goals of democratic security and cultural cohesion and pluralism in a pan-European perspective.

Within the framework of its terms of reference, the CDMM may establish Committees of Experts, Groups of Specialists, Working Parties, etc. of limited membership for the consideration of specific issues. The Ministers' Deputies approved the terms of reference of 7 Groups of Specialists and of 2 Committees:

#### **- Committee of Experts on media concentrations and pluralism (MM-CM)**

Established to monitor the development of media concentration at the pan-European level and to analyse their impact on cultural and political pluralism in Europe. Its mission is also to consider both the positive as well as the possible harmful effects which media concentrations may have on pluralism. Particular attention is to be paid to the consequences which new communications technologies may have on the relationship between media concentrations and pluralism.

A network of national correspondents will be established to submit, on a regular basis, summaries on the development of media concentrations at the national level as well as on the provisions adopted in each Member State to deal with media concentrations and guarantee the maintenance of pluralism.

The Committee will also monitor the implementation in domestic law and practice of the Council of Europe's Member States, of Recommendation No R (94) 13 on measures to promote media transparency (see IRIS 1995-1: 4).

Its work will be co-ordinated with work on media concentrations developed in other fora.

The Committee is chaired by Mr. Karol Jakubowicz from Poland. Vice-Chairman is Mr. Nol Reijnders from the Netherlands. The Committee held its first meeting in 1995, last 26 and 27 January.

#### **- Co-ordinators' Committee of the MEDIALEX Database**

The MEDIALEX Database is being developed as an instrument of the Governments of the Member States of the Council of Europe, especially of those that are Parties to the European Convention on Transfrontier Television (see IRIS 1995-1: 16). It will eventually contain information on national legislation implementing the provisions of this Convention.

This Committee is an advisory and co-ordinating body consisting of national correspondents of the MEDIALEX Database. Its task will be, *inter alia*, to give its opinion on how the MEDIALEX database should be set up and operate, as well as on the future development.

#### **- Group of Specialists on the portrayal of violence in the media (MM-S-VL)**

Chaired by Mr. Fritjof Berger from Germany, this Group of Specialists will analyse the various ways in which violence (psychological, physical and sexual) is depicted in the press and broadcasting sectors as well as in certain related media sectors (telematics, electronic games, computer correspondence and computer applications). The Group will also examine the impact which new communications technologies may have on the portrayal of violence in the media and in the related sectors.

The objective is to highlight the forms of violence portrayal which are likely to offend human dignity or cause psychological harm, in particular those forms which convey a degrading image of the individual, especially women. Particular attention will be paid to the portrayal of violence on children and young people.

The Group will consider the various regulatory and self-regulatory measures already adopted at the national or international level on the portrayal of violence in the media. It will also study technical devices which have been developed to prevent unrestricted access by children or young people to violent programmes or other services.

#### **- Group of Specialists on the impact of new communications technologies on human rights and democratic values (MM-S-NT)**

A meeting of this Group of Specialists has not taken place yet, but its objective is to analyse the consequences which new means of production, distribution and dissemination of text, images and sounds (multimedia, virtual reality, interactive programmes, etc.) used by the mass media (press, radio and television) as well as in the framework of individual communication (telematics, data processing) may have on the protection of human rights.

The Group will examine in particular the possible harmful effects which the use of these new technologies may entail from the angle of respect for human dignity and the fundamental rights of others, as well as from the perspective of respect for private life.

Special attention will be given to the possible risks which the use of new technologies may entail for the fair and honest presentation of facts and events by the media.

The Group will take into account the work already being carried out within the Council of Europe as well as in other fora on the issues concerned. It will draw upon the conclusions of a study to be commissioned by the CDMM from a consultant. It will also focus on research carried out outside Europe in the area of new communications technologies.



**- Group of Specialists on the protection of right holders in the media field (MM-S-PR)**

This Group of Specialists also has not met yet, but on the basis of the work already carried out by the Council of Europe on the protection of copyright and neighbouring rights, it will survey and analyse all developments, technological or other, which are of relevance to its work, including the consequences of the evolution of new technologies for the protection of copyright and neighbouring rights (multimedia, digitalisation, cable, satellite, etc.).

The Group will examine the extent to which international legal instruments on copyright and neighbouring rights provide an appropriate response to the challenges raised by these developments. In doing so, it shall take into consideration all relevant work being carried out in other regional or international fora or by interested professional bodies.

**- Group of Specialists on sound and audio-visual piracy (MM-S-PI)**

This Group of Specialists has already met before in the past years and prepared the Recommendation of the Council of Europe's Committee of Ministers of 13 January 1995 inviting the Member States to step up their fight against sound and audio-visual piracy (see IRIS 1995-1:4).

Under the new terms of reference, the Group will monitor the development of piracy of sound and audio-visual works at the pan-European level. The impact which new communications technologies may have on piracy, as well as the contribution which these new technologies might make to combating it, will be studied. The Group will also review the measures adopted in the Member States of the Council of Europe to combat sound and audio-visual piracy and examine any possible difficulties which have been encountered. Furthermore, it will study the follow-up given by Member States to the initiatives of the Council of Europe to combat piracy.

The idea is also to organise in 1995 a workshop on the fight against piracy.

**- Group of Specialists on the protection of journalists (MM-S-OJ)**

This Group of Specialists will survey and analyse the different issues concerning the protection of journalists and other media professionals working in situations of conflict and tension. The Group will also consider to what extent the international legal instruments dealing with the protection of journalists adequately address these issues.

The Group's reflections will be situated within the framework of the role which the media may play in situations of conflict and tension. Work being carried out in its area of competence within other fora or by interested professional bodies, will be taken into consideration by the Group.

**- Group of Specialist on media and intolerance (MM-S-IN)**

This Group of Specialists will examine the role which the media (press, radio and television) may play in propagating racism, xenophobia, antisemitism and intolerance, as well as the contribution which they make to combatting these phenomena.

The Group will study ways of promoting awareness and training for media professionals, in particular journalists, on the contribution which they might make to combatting intolerance. The Group will also study ways of promoting media education, so as to allow the public to acquire a more critical perspective on media reporting and comment on matters such as racial violence, etc.

A survey and an analysis will be made of relevant provisions contained in international legal instruments as well as in the legislation of the Member States of the Council of Europe. The analysis will also focus on any self-regulatory measures which have been adopted in this area by the media themselves.

Work being conducted in this area within the Council of Europe or in other international fora will be taken into account.

**- Group of Specialists on media in a pan-European perspective (MM-S-EP)**

This Group of Specialists will develop activities geared towards deepening the commitment of all States to freedom of expression exercised through free, independent and pluralistic media. The Group will focus on ways of promoting democratic security and cohesion through media law and policy.

The Group will identify and study themes which help promote the integration of all new Member States as well as applicant States. It will inform itself on the real needs of new Member States and applicant States in the area of media law and policy. The Group may propose the organisation of ad hoc seminars, country-specific analyses, publications, etc.

The Group will organise training workshops of a practical nature, designed to satisfy the needs expressed by audio-visual professionals in Europe and essentially targeted at the professionals in the smaller European countries.

The gaps revealed by the Council of Europe's ATENA database on training facilities will receive special attention.

**EUROPEAN AUDIOVISUAL OBSERVATORY: Successful regional seminar for professionals of the Czech and Slovak audio-visual sectors**

On 27 January 1995, the European Audiovisual Observatory organised a regional seminar in Prague which was attended by 90 professionals, government representatives and practising lawyers of the Czech and Slovak Republics.

The main objectives of the seminar were to present the products and services of the Observatory to the participants and to answer to all questions they might have on issues relevant to the audio-visual sector.

The questions relating to the Observatory's legal information area all concerned copyright and cable distribution issues. Some examples of questions asked: can cable distribution be regarded as broadcasting? Do small local cable networks have to pay copyright fees? Who owns the copyright of audio-visual works produced under the old regime?

As it turned out, at the moment, one of the major problems of sound radio broadcasters in the Slovak Republic is the role of the rights collecting society which obliges them to pay a fee for the broadcasting of copyright protected works. The fees demanded by the copyright society are apparently of a level that many broadcasters cannot afford and they need to choose between stopping their broadcasting activities or illegal broadcasting of protected works. The Slovak Government, however, has warned the broadcasters that the latter choice will be regarded as a criminal offence.

#### EUROPEAN UNION: Assistance to Central and Eastern European countries in the field of intellectual property rights management

The European Union's Phare and Tacis Democracy Programmes aim to contribute to the consolidation of pluralist democratic procedures and practices, as well as the rule of law, with a view to supporting the overall process of economic and political reform in the central and eastern European countries.

In the framework of its Phare programme, the European Union is supporting a joint initiative of AIDAA, the International Association of Authors of the Audio-Visual sector (*Association Internationale des Auteurs de l'Audiovisuel*) and GESAC, the European group of rights collecting societies (*Groupement européen des sociétés d'auteurs-compositeurs*).

Together, the organisations have drawn up a programme of technical training and information concerning intellectual property issues that relate to the audio-visual sector. The objectives are to inform the authors in the Central and Eastern European countries of the continental European system of protection of authors' rights and to explain the legitimacy of the system to the governments of their countries.

The countries covered at the moment are: Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic, and Slovenia. The project may be extended at a later stage to the countries of the former Soviet Union (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan) and Mongolia in the framework of the European Union's TACIS programme.

The implementation of the present programme started on 1 September 1994 and will run until 30 September 1996. It is subdivided in four phases.

During Phase 1, from 1 September 1994 - 31 March 1995, information seminars are organised in each of the countries covered, in close collaboration with the local unions and associations and possibly also in collaboration with a national rights collecting society of their choice and with the Ministry of Culture or the Ministry responsible for Intellectual Property. During these seminars, the notion of authors' rights is explained in detail as well as the advantages of collective rights collecting.

Phase 2 will start on 1 April 1995 and end on 30 September 1995 and will consist of country-specific training programmes.

Phase 3, from 1 October 1995 until 31 March 1996 will provide training opportunities with rights collecting societies in the European Union.

In Phase 4, from 1 April 1996 until 30 September 1996, the state of advancement of the Programme will be assessed and the progress made in individual countries. Concrete proposals will be made for the supply of computer equipment and software to enable a basic level of operation of each rights collecting society.

The end result envisaged is the realisation of a normal administration of the rights and interests in the field of intellectual property through the protection of authors' rights and neighbouring rights and the establishment of national collective rights collecting societies safeguarding the interests of national creators as well as those of creators in the rest of the world whose works are used in the Central and Eastern European countries.

For this, the Programme aims at:

- the adoption of laws and Decrees to implement the laws;
- the signing of relevant international treaties;
- the establishment of representative rights collection societies of right holders;
- recognition by the Central and Eastern European countries of the role of these societies and their support;
- competent staff members capable of establishing a modern system of collecting and apportioning fees and of defending the rights;
- the taking into account of these rights by the authorities for the administering of justice and the administrative authorities;
- fight against piracy of sound and audio-visual works.

#### EUROPEAN UNION: Commission adopts MEDIA II

On Wednesday, 8 February 1995 the Commission of the European Communities adopted the MEDIA II programme. The budget will be 400 million ECUs for the next 5 years, twice the budget of the MEDIA I programme. More details in IRIS 1995-3 (end of March).

#### BELGIUM: Cable networks in the Brussels area stop the distribution of "Nederland 3"

To make room for the disputed distribution of the programme of the new Flemish private commercial broadcaster VT4 of the Skandinavian/American media company SBS, cable operators in the Brussels area have decided to stop the distribution of the programme of Nederland 3, one of the public stations of the Netherlands.

This decision has led to protests of, on the one hand, the Government of the Netherlands and, on the other hand, Dutch Members of the European Parliament and journalists.

The Dutch Government has pointed out to the Flemish Minister of Culture, Mr. H. Weckx, that according to the cultural treaty between Belgium and the Netherlands, Dutch cable networks are obliged to distribute the programmes of the Flemish public broadcasters and vice versa.

Dutch Members of the European Parliament and journalists argue that *Nederland 3* foresees them of information that is of invaluable importance for the performance of their duties.



#### DENMARK: Agreement on the strengthening of Danish public service television

On 20 January 1995 the Danish government and the Socialist People's Party came to an agreement on the strengthening of Danish public service television as a result of the increasing competition from foreign television stations.

On the basis of the agreement, *Danmarks Radio* will be authorized to experiment with a satellite channel using new digital technology. The channel is supposed to supplement the existing programmes that are broadcast terrestrial.

The purpose of this extra channel - which is expected to be a fully developed programme channel by 1998 - is to increase the possibilities for the Danish population to watch Danish programmes all evening, to offer alternatives (information programmes and entertainment) and to broadcast more special interest programmes.

In a limited geographical area, *Danmarks Radio* will also be authorized to experiment with digital radio broadcasting (Digital Audio Broadcasting - DAB) on the 3 existing radio channels as well as on a new radio channel. For this, *Danmarks Radio* will be allowed to make use of the vacant FM channel (the so-called P4) until 1 January 1998 for parallel broadcasting of the new DAB programme. The DAB technology, which is now being introduced in a number of European countries, first and foremost implies a considerably improved sound quality (CD quality) compared to the existing FM broadcasts, especially for mobile radios.

During the remaining period of the licence fee agreement, TV 2 (national) will be authorized to use a total amount of DKK 50 million from the TV 2 fund, which amount may be exceeded if the advertising revenues are higher than assumed in the licence fee agreement.

It is envisaged that these additional means will be used for the production of more Danish high quality programmes so that the competition from foreign channels can be met with quality rather than low-priced series of poor quality.

The agreement implies that in the Autumn of 1995 a Bill will be introduced which authorizes *Danmarks Radio* (and TV 2) to establish new satellite channels.

#### LUXEMBOURG: Framework agreement on renewal of CLT's broadcasting licence

On 16 January, the *Compagnie Luxembourgeoise de Télédiffusion (CLT)* signed a framework agreement with the Luxembourg Government on the renewal of its broadcasting licence.

Since 1930, CLT has held a licence for the exclusive use Luxembourg's terrestrial broadcasting frequencies. The last time the licence was renewed was in 1973.

It has now been agreed that all aspects of the new licence should be negotiated before 31 March 1995, after which a licence will be granted valid until 2010.

The majority shareholders of CLT are the Belgian *Groupe Bruxelles Lambert* and the French *Havas* concern. With them, the Luxembourg government agreed to reduce its influence on CLT. What will remain for the government is a right ultimate control: two-thirds of the shares will have to be registered shares and share transactions will have to be approved by the government. The exclusive right to use frequencies that are suitable for international broadcasting will remain with CLT.

The Luxembourg government agreed not to give its approval to projects that might compete with existing or planned CLT initiatives. In return, CLT agreed to invest DM 50 million in the building of a new television centre. The company also ensured the government that its future initiatives in the field of digital broadcasting would be undertaken from Luxembourg territory.

Furthermore, CLT will no longer have to pay an annual fee for the use of the broadcasting frequencies assigned to it. In the past, this fee amounted up to DM 50 million. Instead, CLT will have to bear all costs of both CLT-produced television programmes of the Luxembourg broadcaster *Hei Elei* and of the programmes of *Radio Lëtzebuerg*. The total cost thereof are estimated to be DM 250 million for 15 years. Until now, Luxembourg covered two-thirds of these costs and the additional costs were recouped from advertising revenues. The CLT, however, has reserved the right to renegotiate this part of the agreement in case of major deficits of *Hei Elei*. Moreover, CLT has announced that programme budgets will be cut by 10%.

The new licence agreement is to enter into force on 1 January 1996.

Source: INFOSAT 83, Heft 2, February 1995 (Euro-Info-Media S.A.R.L., b.p. 1051, L-1010 Luxembourg): 62-63.

#### NORWAY: Action against pornographic broadcasts

The Mass Media Authority of Norway has taken action against the Swedish film channel *FilmMax*. The channel, owned by *TV1000 Sverige AB*, is transmitting films which, according to Norwegian law, are of a pornographic nature and for that reason illegal. According to Norwegian broadcasting law, the Mass Media Authority can ban the distribution by Norwegian cable networks of programmes containing pornography in defiance of Norwegian law. In this particular case, illegal pornographic programmes were transmitted several times every week.

The Mass Media Authority informed the cable and broadcasting companies, of its decision to ban the distribution on the cable networks. The EFTA Surveillance Authority (ESA - established under the European Economic Area Agreement) was informed of the decision in question. From the Mass Media Authority's point of view, Norway may have more restrictive national regulations on this matter than what follows from the EEC Directive on "Television without Frontiers".

*FilmMax*, the cable networks and its subscribers have appealed to the decision. The Norwegian Ministry of Culture is now handling the case, and ministerial representatives will consult with the ESA before taking their decision. Until the final decision, the Norwegian cable networks may continue the distribution of the programmes of *FilmMax*.

In the Autumn of 1994, the Swedish film channel *TV1000* also broadcasted programmes containing illegal pornography which were distributed by Norwegian cable networks. After being informed by the Mass Media Authority that it would possibly ban the programme of *TV1000* from Norwegian cable networks, *TV1000* adjusted its programme to the requirements of Norwegian law.

(Liv Daae Gabrielsen, Statens Medieforvaltning)



GERMANY: Documentation and Research in the field of Media Legislation;  
The Media Legislation Research Centre at the University of the Saarland  
in Saarbrücken.

The University of the Saarland, situated right on the border with France and not far from Luxembourg, not only houses the European Institute, where academicians can gain additional qualifications recognised at a European level, but also boasts another special facility: the Media Legislation Research Centre. This centre was set up by Professor Dr. Wolfgang Knies, the head of the School for State and Administrative Law at the University of the Saarland.

The Media Legislation Research Centre has been in existence since 1979 and is able to offer to all those concerned not only a well-equipped media legislation library but also a wide choice of different journals and other publications in this field as well as a media legislation data bank. This data bank is divided up into different sections allowing the user to carry out specific research in General Documentation, Literature, Materials and Jurisdiction. This service is not only easy to use but also offers the latest up-to-date materials thanks to the continual updating of the most recent facts and topics in media legislation.

In addition to his business experience in the field of Media legislation, gained through work on the Funding Evaluation Committee for radio broadcasting bodies, and to his membership of several radio boards (the board of directors of the former Deutschlandfunk, the radio administration board and the program advisory board of the Saarlandischer Rundfunk and currently the board of directors of this same station), Professor Dr. Knies has uninterrupted practical experience in radio broadcasting legislation.

Not to be forgotten also is the annual seminar dealing with issues in press and radio broadcasting legislation. This is organised and led by Professor Dr. Knies and Professor Dr. Dieter Dörr (legal advisor for the Saarlandischer Rundfunk and director of the Institute for European Media Legislation in Saarbrücken) and has met with overwhelming approval in the last few years.

The lecturers deal with subjects such as the basic legislation concerning freedom of expression, press and art as well as the important issue of radio constitutional law. Many lecturers have also covered media legislation in other European and non-European states. Delegates are also given practical insight through visits to radio broadcasting bodies and press organisations.

Some collaboration between the Media Legislation Research Centre and the Institute for European Media Legislation is planned for the future.

The address of the Media Legislation Centre is:

Arbeitsstelle Medienrecht - FB Rechtswissenschaft - Universität - Postfach 1150 - D-66041 Saarbrücken  
Ph: +49 681 3023158

(Marie Therese Nicolay - *Institut für Europäisches Medienrecht*)

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**AGENDA**

**Les mardis de l'Audiovisuel  
Cycle de conférences sur le  
droit de l'audiovisuel européen**  
Themes:

7 March 1995 - Valérie Willemms: "Concentrations et pluralisme dans le domaine de l'audiovisuel. Enjeux à l'aube de la société de l'information";  
11 April 1995 - Marianne Dony: "Les aides à l'audiovisuel à la lumière du traité de Maastricht";  
9 May 1995 - Carine Dautreleont: "La jurisprudence de la Cour de justice dans le domaine de l'audiovisuel".  
Time: 6.30 pm-8.00 pm  
Place: Institut d'Etudes européennes, Avenue F.D. Roosevelt, 39 - CP 172, Séminaire III, B-1050 Brussels.  
Organisation: "Université Libre de Bruxelles (ULB), Centre de droit de l'information et de la communication de la faculté de droit" in collaboration with the "Institut d'études européennes".  
Information and Registration: Jeanne De Ligne, Institut d'Etudes européennes, Avenue F.D. Roosevelt 39, B-1050 Brussels, Ph.: +32 2 6503093.  
Price: BEF 1,100 for each session.

**Justice et Medias  
Séminaire de philosophie  
du droit**

Theme:  
*Représentation de la violence*  
12 March 1995 - Daniel Dayan: "Les cérémonies médiatiques";  
27 March 1995 - Séance de

synthèse: Pierre Ruche:  
"La violence de la justice-spectacle".  
Theme: *Démocratie médiatique*  
3 April 1995 - Jean de Munck: "Que peut la justice au marché de l'image?"  
17 April 1995 - Boris Libois: "Vers une régulation procédurale des médias";  
15 May 1995 - Daniel Bougnoux: "Le direct, la démocratie et les effondrements symboliques";  
29 May 1995 - Philippe Raynaud: "La transparence";  
12 June 1995 - Séance de synthèse. Claude Lefort: "La démocratie à l'épreuve des médias".  
Time: 5.30 pm - 7.30 pm  
Place: ENM, 3 ter quai aux fleurs, F-75004 Paris.  
Organisation: Ecole Nationale de la Magistrature (ENM), the Institut des hautes études sur la justice and ESPRIT.  
Information and Registration: Anne Avy, IHEJ, 8 rue Chanoinesse, F-75004 Paris, Ph.: +33 1 40510251, no charge.

**Exploiting the new opportunities of Video on Demand,**  
27 March 1995: Introductory Briefing on "Developing your network strategy for delivering VOD" (Code G3223); 28-29 March 1995: Two Day Conference (Code G3224), Brompton Conference Suite at Earls Court Exhibition Centre, Warwick Rd., London SW5, Conference: £ 795 (excl. 17.5% VAT), Introductory

Briefing: £ 495 (excl.17.5 VAT), Both: £ 1190 (excl. 17.5% VAT), Information and Registration: IIR Ltd., ph.: +44 171 4120141, fax: +44 171 4120145.

**The Business of Broadcasting in Europe. Function and virtual reality,** 29 March 1995, The Dorchester Hotel, Park Lane, London W1A 2HJ, Ph.: +44 171 6298888, £ 395 plus VAT, documentation only: £ 95, £ 110 (overseas), Information and Registration: IBC Legal Studies and Services Limited, Ruth Hogg, Gilmoora House, 57-61 Mortimer Street, London W1N 8JX, ph.: +44 171 6374383, fax: +44 171 6313214.

**Home Shopping,** 5 April 1995, Seminar: "Developing your interactive home shopping application" (Code G3275), 6-7 April 1995: "Exploiting the opportunities in the rapidly emerging market of home shopping" (Code G3274), Conference G3274: The Regent London, 222 Marylebone Road, London NW1 6JQ, ph.: +44 171 6318000, fax: +44 171 3969090, Seminar: Harrington Hall, 5-25 Harrington Gardens, South Kensington, London SW7 4JW, ph.: +44 171 3969696, fax: +44 171 3969090, Conference: £ 695 (excl. 17.5% VAT), Seminar: £ 495 (excl.17.5 VAT), Both: £ 1040 (excl. 17.5% VAT), Information and Registration: IIR Ltd., ph.: +44 171 4120141, fax: +44 171 4120145.

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**PUBLICATIONS**

Becker, J., & T. Dreier; *Urheberrecht und digitale Technologie: Arbeitssitzung des Instituts für Urheber- und Medienrecht am 22. April 1994* (Schriftenreihe des Archivs für Urheber-, Film-, Funk- und Theaterrecht (UFITA); Bd 212), Baden-Baden: Nomos Verlagsgesellschaft, 1994, 184p., ISBN 3789034975, DM 49.

Eggersberg, M.; *Die Übertragbarkeit des Urheberrechts in historischer und rechtsvergleichender Sicht* (Rechtswissenschaftliche Forschung und Entwicklung, Bd 328), Munich: VVF Florentz-Verlag GmbH, 299p., DM 58,80.

Gruber, B.; *Medienpolitik der EG* (Schriften der Deutschen Gesellschaft für COMNET, Band 12), Constance: UVK Medien/Ölschläger 1994, 268p., DM 58.

Henry, M.; *Publishing and Multimedia Law*, London: Butterworths 1994, 800p., £ 75.

Herrmann, Günter; *Rundfunkrecht. Fernsehen und Hörfunk mit neuen Medien*, München: Verlag C.H. Beck, 788p., ISBN 3406381340.

Humphrey, P.; *Media and Media Policy in Germany: The Press and Broadcasting Since 1945.*, 2nd ed., Leamington Spa, Berg Pubs. 1994, 381p., ISBN 0854968539, £ 19.95.

Jongen, François; *La police de l'audiovisuel. Analyse comparée de la régulation de la radio et de la télévision en Europe*, Brussels: Bruylant, ISBN 2-8027-0867-8 and Paris: L.G.D.J. 1994, 544p., ISBN 2275004785,

Kleinsteuber, H.J. & T. Rossmann; *Europa als Kommunikationsraum*, Leverkusen-Opladen: Verlag Leske & Budrich 1994, 350p., ISBN 3810012807, DM 48.

Levison, L.; *Film Makers and Financing: Business Plans for Independents*, Boston: Focal Press 1994, 218p., ISBN 0240802071.

Litwark, M.; *Deal Making in the Film & Television Industry: from Negotiations to Final Contracts*, Los Angeles: Silman James Press 1994, 349p., ISBN 1879505150.

Lucas, A., & H.-J. Lucas; *Traité de la propriété littéraire et artistique*. Paris: Litec 1994, 1104p.

Marcellin, Y. (Ed). *Code annoté de la propriété intellectuelle 1995*, Paris: RDPI 1995, FF 850.

Neels, Leo, Dirk Voorhoof & Hans Maertens; *Medialex 1994, Selectie van bronnen van de media- en informatiewetgeving*, Antwerp: Kluwer rechtswetenschappen België 1994, 667p., ISBN 9055830771.

Owen, L; *Selling Rights*, 2nd ed., London: Blueprint Pub 1994, 248p., ISBN 1857130073, £ 29.95.

Peifer, Karl Nikolaus; *Werbeunterbrechung in Spielfilmen: Eine vergleichende Untersuchung nach deutschem, italienischem und internationalem Urheberrecht unter Berücksichtigung des Rundfunkrechts* (Schriftenreihe des Archivs für Urheber-, Film-, Funk- und Theaterrecht, Bd 124), Baden-Baden: Nomos Verlagsgesellschaft 1994, 345p., ISBN 3789035718 DM 86.

Petersen; *Rundfunkfreiheit und EG-Vertrag: Die Einwirkung des europäischen Rechts aus die Ausgestaltung der nationalen Rundfunkordnungen*, Baden-Baden: Nomos Verlagsgesellschaft 1994, 340p., DM 85, ISBN 3789035432.

Pontier, J.-M.; *Le droit du cinéma* (Que sais-je ?; 2936), Paris: PUF 1995, 128p., ISBN 2130467865, FF 40.

*Questions juridiques relatives aux oeuvres multimédias*, Paris: Syndicat national de l'édition" 1995, FF 170.

Säfsbeck, L.; *Regleringen av svensk marksänd reklam-TV: om avtalet mellan TV4 och staten samt nya radiolagen*, Stockholm: Jurisförlaget 1994, 88p.

Santaniello, G.; *Garante per la Radiodiffusione e l'Editoria: relazione al parlamento sull'attività svolta dals garante per la radiodiffusione e l'editoria e sullo stato di applicazione della legge 06/08/90, N°223, al 31 marzo 1994*, Rome: Vita Italiana; Istituzioni e comunicazione 1994, 172p., L 20 000.

Seignette, J.; *Challenges to the Creator Doctrine* (Information Law Series; 3), Deventer: Kluwer Law and Taxation 1994, 212 p., ISBN 9065448764, £ 35

Sorlin, P.; *Mass Media*, London: Routledge 1994, 15p., ISBN 0415110238, £ 27.50.

Urban, M.-P.; *Les institutions et la dimension régionale de l'espace audiovisuel européen*, Strasbourg: Presse Universitaire de Strasbourg 1994, 160p., ISBN 2868206166, FF 90

Vandoorne, B., & C. Depreiter; *La nouvelle loi sur les droits de l'auteur dans le domaine des oeuvres visuelles*, Brussels: Ed. SOFAM Scrl 1994, 140p.

Van Waasen, R.; *Das Spannungsfeld zwischen Urheberrecht und Eigentum im deutschen und ausländischen Recht* (Europäische Hochschulschriften, Reihe 2, Rechtswissenschaft, Bd. 1616), Frankfurt: Peter Lang GmbH 1994, 305p), DM 89.

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