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EDITORIAL

In a 1942 short story entitled *Runaround*, science fiction author Isaac Asimov spelled out his Three Laws of Robotics, which aimed at protecting human beings from being harmed by robots. He later added a Zeroth Law: “A robot may not harm humanity, or, by inaction, allow humanity to come to harm”.

At the time Asimov put those Laws on paper, intelligent robots were no more than science fiction. Not anymore. Artificial Intelligence (AI) is happening, and, as in any other technological development, it has its good and bad sides. As intelligent machines increasingly take over jobs that were originally performed by humans, actual rules must be devised so that AI does not *harm humanity, or, by inaction, allows humanity to come to harm*. The issue has become fashionable at international fora such as UNESCO and the Council of Europe, and the European Commission has also jumped on the bandwagon. On 8 April 2019, the High-Level Expert Group on Artificial Intelligence, an independent expert group set up by the Commission, published its Ethics Guidelines for Trustworthy AI.

A particular group of human beings that deserve particular protection from machines are our little ones. There are many ways in which children may come to harm when interacting with online machines, but fortunately, there are also many ways of protecting them. One example: under section 123 of the UK Data Protection Act, the Information Commissioner must prepare a code of practice that contains such guidance as the Commissioner considers appropriate in respect of standards regarding the age-appropriate design of relevant “information society” services that are likely to be accessed by children. Another example: according to the German Inter-State Agreement on the protection of minors in the media, some telemedia content that may be harmful to minors may only be transmitted if the provider ensures, through closed user groups, that it can only be accessed by adults. Content that may impair the development of children may be distributed if, for example, the provider ensures through a technical system that it cannot normally be accessed by children and young people in the relevant age groups.

Of course, nobody denies the difficulties that the protection of fundamental rights in an online environment entails. For example, incitement to hatred and calls for terrorist action online are unfortunately too common, and monitoring all of them seems like a Herculean labour. Nevertheless, unity makes strength, so when intermediaries and platforms such as Amazon, Facebook, Google and Twitter join forces with 17 national governments in an international effort to eliminate terrorist videos on the Internet, at least we know that substantial muscle is being brought to the task.

On the subject of dystopian science fiction narratives, George Orwell has *1984*’s hero Winston Smith work for the Ministry of Truth, a misnomer for an official

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propaganda body in charge of misleading the population. This topic, misinformation, has led some countries to develop legislation to block its dissemination. It is, of course, debatable whether is it better to allow a robust, unfettered exchange of ideas, allowing thereby factual inaccuracies (whether intentional or not) to slip into the debate, or whether some kind of *ex ante* filter should be introduced so that fake news does not mislead the public. As an example of the latter, in France, for the first time, we have a court of law dealing with the dissemination of “fake news” being blocked during an election campaign.

This, and so much more awaits you inside this month’s newsletter, which will be the last one before the summer break.

Enjoy your read (and the summer)!

Maja Cappello, editor
European Audiovisual Observatory

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INTERNATIONAL

EBU

EBU publishes position papers on the interpretation and application of new AVMSD rules

Christina Etteldorf

In April of this year, the European Broadcasting Union (EBU), an alliance of 72 public service broadcasters in 56 countries in Europe, North Africa and the Near East, published two position papers on the interpretation and application of new EU rules on video-sharing platforms (VSPs) and support for European audiovisual works. In particular, the papers are intended to influence the guidelines that the European Commission is required to publish concerning the practical application of the new rules.

Directive (EU) 2018/1808 amending Directive 2010/13/EU on audiovisual media services (Audiovisual Media Services Directive) must be transposed into national law by the member states by September 2020. The extension of certain rules to cover VSPs and the amendment of the provisions on support for European works are among the most important changes introduced under the Directive. VSPs are made subject to a series of obligations, especially in the fields of youth protection and audiovisual commercial communication. The Directive essentially defines VSP services as services where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes or user-generated videos, for which the VSP provider does not have editorial responsibility, to the general public. In order to ensure clarity, effectiveness and consistency of implementation, the European Commission should, according to recital 5, where necessary, issue guidelines on the practical application of the “essential functionality” criterion. An obligation to publish guidelines regarding the calculation of the share of European works that on-demand audiovisual media services should include in their catalogues is also contained in the new Article 13(7). The EBU’s recently published position papers concern the areas to be covered by these guidelines.

With regard to the “essential functionality” criterion of a service, the EBU proposes a two-step assessment. In the first step, platforms which obviously include audiovisual content and therefore fall under the scope of VSP services could be identified with the help of some specific indicators. The EBU suggests that such indicators could include the use of audiovisual components as marketing tools. The presence and prominence of audiovisual content on the user interface, the tailoring of technical features for audiovisual content (for example, auto-play) to user requirements, and the curation and monetisation of audiovisual

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content are also suggested. In a second step, platforms that do not fulfil any of the aforementioned indicators could be subject to an overall assessment on the basis of general indicators such as the quantity, quality and type of audiovisual content offered, the number of users of the content and the amount or intensity of the use.

As regards the calculation of the share of European works that VOD service providers should include in their catalogues, the EBU proposes a calculation system based on the duration of programmes (hours/minutes) as opposed to a method that is merely based on the number of titles or episodes. A calculation system based on duration seems more objective and reliable and avoids the dilemma of having to decide between titles and episodes (in the case of series, for example). It also fits in with systems already applied to linear services. The EBU therefore favours a calculation based not on providers, but on catalogues, the equivalent of channels offered by linear service providers.

Position paper on the interpretation of the "essential functionality" criterion of 19 March 2019

https://www.ebu.ch/files/live/sites/ebu/files/Publications/Position%20papers/EBU-Position-EN_%20Essential%20Functionality%20Criterion%20in%20Definition%20of%20VSP%20Services.pdf

Position paper on the calculation of the share of European works of 14 March 2019

https://www.ebu.ch/files/live/sites/ebu/files/Publications/Position%20papers/EBU-Position-EN_CalculationEuropeanWorks.pdf

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FRANCE

Christchurch summit in Paris calls for stronger action against terrorist content online

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Intermediaries and platforms such as Amazon, Facebook, Google and Twitter have joined forces with 17 national governments in an international effort to eliminate terrorist videos on the Internet. The “Christchurch Call to eliminate terrorist and violent extremist content online”, issued by the participants in a summit held at the Elysee Palace on 15 May 2019, will result in the tightening of the rules on live streaming. The summit was convened as a direct consequence of the 17-minute Facebook live stream of the terrorist attack carried out in Christchurch, New Zealand on 15 March.

The governments that signed the call to action promised, inter alia, to:

- ensure effective enforcement of applicable laws that prohibit the production or dissemination of terrorist and violent extremist content, in a manner consistent with the rule of law and international human rights law, including freedom of expression;

- encourage media outlets to apply ethical standards when depicting terrorist events online in order to avoid amplifying terrorist and violent extremist content;

- consider appropriate action to prevent the use of online services to disseminate terrorist and violent extremist content.

The online service providers concerned committed, inter alia, to:

- taking transparent, specific measures seeking to prevent the upload of terrorist and violent extremist content and to prevent its dissemination on social media and similar content-sharing services, including its immediate and permanent removal;

- implementing immediate, effective measures to mitigate the specific risk of terrorist and violent extremist content being disseminated through livestreaming;

- reviewing the operation of algorithms and other processes that may drive users towards terrorist and violent extremist content and/or amplify that content.

The governments and online service providers agreed to work collectively to:

- work with civil society to promote community-led efforts to counter violent extremism in all its forms, including through the development and promotion of positive alternatives and counter-messaging;

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- develop effective interventions, based on trusted information-sharing about the effects of algorithmic and other processes, in order to redirect users from terrorist and violent extremist content;

- ensure appropriate cooperation with and among law enforcement agencies for the purposes of investigating and prosecuting illegal online activity in regard to terrorist and violent extremist content.

Before the summit started, Facebook announced that it would be tightening its rules on livestreaming. Any user who breaks Facebook's policies will be immediately blocked from using the service for a set period of time, such as 30 days. The most serious offenders will be permanently blocked. Facebook said that serious offences included forwarding a link to a statement by a terrorist group with no context. Facebook also pledged USD 7.5 million towards new research into image and video analysis technologies designed to detect manipulated content that can bypass the network's automatic detection system.

In their call to action, the summit participants promised that the principles of a free and open Internet, as well as freedom of expression, would be respected.

According to the French president's office, the 17 countries that backed the call included Germany, Canada, Great Britain, Australia and Japan, but not the United States of America.

France has witnessed a series of Islamist-motivated terrorist attacks in recent years, with more than 200 people killed, and is making the fight against the use of the Internet for terrorist and violent extremist purposes one of the priorities of its presidency this year of the G7 group of leading industrial nations.

Call to action of 15 May 2019

https://www.christchurchcall.com/christchurch-call.pdf

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COUNCIL OF EUROPE

RUSSIAN FEDERATION

European Court of Human Rights: Kablis v. Russia

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On 30 April 2019, the European Court of Human Rights (ECtHR) found that the blocking by Russian authorities of an activist's social networking account and entries on his blog had breached his right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR). The applicant, Grigoriy Kablis, had called for participation in a 'people's assembly' at a square in Syktyvkar, the capital of the Komi Republic, after the local authorities had already refused Kablis' request to organise a public event at that venue, and had proposed another specially designated location for holding public events. The ECtHR also found that Kablis' right to freedom of peaceful assembly as guaranteed by Article 11 ECHR has been violated, as well as his right to an effective remedy under Article 13 ECHR. The most important part of the judgment concentrates on the blocking measures as a form of prior restraint on Kablis' right to freedom of expression. The Court's judgment is a clear warning against too vague and overbroad legislation leaving too much power to the Public Prosecutor's office or other authorities to block social networking accounts or to remove alleged illegal material from the Internet without sufficient guarantees on effective and prompt judicial review.

In 2015, the Governor of the Komi Republic and several high-ranking officials were arrested and criminal proceedings were opened on suspicion of their membership of a criminal gang and of them having committed fraud. After a refusal by the local authorities to organise a 'picket' to discuss the arrest of the Komi Republic Government, Kablis posted a message on his blog calling for participation in the unauthorised public event. He also published a post with similar content on VKontakte, a popular online social networking service. The next day, Kablis' VKontakte account was blocked following an order by the Federal Service for Supervision of Communications, Information Technology and Mass Media and a deputy Prosecutor General of the Russian Federation, because Kablis had been campaigning for participation in an unlawful public event in breach of the Public Events Act, justifying the blocking of the account pursuant to section 15.3(1) of the Information Act. Kablis was also informed by the administrator of the Internet site that hosted his blog that access to the blog entries campaigning for the announced picket had been restricted on the order of the Prosecutor General's office. Kablis challenged the decisions of the Prosecutor General's office, but his complaint was dismissed at all domestic levels.

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Kablis lodged an application before the ECtHR, complaining that the blocking of his social networking account and entries on his blog calling for participation in an unauthorised public event had breached his right to freedom of expression. The ECtHR first of all disagrees with the Russian authorities' argument that there was no restriction of Kablis' right to freedom of expression, as his account could have been unblocked if he had deleted the unlawful content and he could also have created a new social networking account and written new Internet blogs. The ECtHR leaves no doubt that the blocking of Kablis' social networking account and of the entries on his blog amounted to 'interference by a public authority' with Kablis' right to freedom of expression. Next, the ECtHR focuses on the fact that the blocking order has been taken before a judicial decision was issued on the illegality of the published content, and that therefore the interference with Kablis' right to freedom of expression amounted to a prior restraint. Although Article 10 ECHR does not prohibit prior restraints on publication as such, the dangers inherent in prior restraints call for the most careful scrutiny on the part of the ECtHR and are justified only in exceptional circumstances. This approach of 'careful scrutiny' is especially applicable as far as the press is concerned, 'for news is a perishable commodity and to delay its publication, even for a short period, may well deprive it of all its value and interest'. The ECtHR clarifies that this danger 'also applies to publications other than periodicals that deal with a topical issue' and it reiterates that 'in cases of prior restraint, a legal framework is required, ensuring both tight control over the scope of bans and effective judicial review to prevent any abuse of power'. The Court is of the opinion that the blocking order was based on a 'too broad and vague' provision in law, while the law does not require the Prosecutor General's office to examine whether the wholesale blocking of the entire website or webpage, rather than of a specific information item published on it, was necessary, having regard to the criteria established and applied by the ECtHR under Article 10 ECHR. The Court, referring to its judgments in Ahmet Yıldırım v. Turkey (IRIS 2013/2-1) and Cengiz and Others v. Turkey (IRIS 2016/2-1) emphasises that 'Article 10 requires the authorities to take into consideration, among other aspects, the fact that such a measure, by rendering large quantities of information inaccessible, is bound to substantially restrict the rights of Internet users and to have a significant collateral effect on the material that has not been found to be illegal'. The ECtHR recognises that the exercise of the Prosecutor General's powers to block Internet posts is subject to judicial review, but that it is 'likely to be difficult, if not impossible', to challenge effectively the blocking measure on judicial review and it concludes that the blocking procedure provided for by section 15.3 of the Information Act 'lacks the necessary guarantees against abuse required by the Court's case law for prior restraint measures, in particular tight control over the scope of bans and effective judicial review to prevent any abuse of power'.

Finally, the ECtHR observes that the fact that Kablis breached a statutory prohibition by calling for participation in a public event held in breach of the established procedure is not sufficient in itself to justify an interference with his freedom of expression. It takes into account a number of considerations, including that (a) the aim of the public event was to express an opinion on a topical issue of public interest, namely the recent arrest of the regional government officials; (b) approval of the public event had been refused on formal grounds, rather than on

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the grounds that the event in question presented a risk of public disorder or public safety; (c) the impugned Internet posts did not contain any calls to commit violent, disorderly or otherwise unlawful acts; (d) in view of the event's location, small size and peaceful character, there is no reason to believe that it would have been necessary for the authorities to intervene to guarantee its smooth conduct; and (e) as Kablis explicitly stated on his blog that the public event had not been duly approved, he did not try to mislead prospective participants by making them believe that they were going to participate in a lawful event. According to the ECtHR, it follows that the breach of the procedure for the conduct of public events in the present case was minor and did not create any real risk of public disorder or crime. On these grounds, the Court is not convinced that there was 'a pressing social need' to apply prior restraint measures and to block access to the impugned Internet posts calling for participation in that event and thereby expressing an opinion on an important matter of public interest. The ECtHR concludes unanimously that Russian law lacks the necessary guarantees against abuse required by the Court's case law for prior restraint measures, and that the standards applied by the domestic courts were not in conformity with the principles embodied in Article 10 ECHR. As the Russian courts did not provide 'relevant and sufficient' reasons for the interference with Kablis' right to freedom of expression, the ECtHR finds that there has been a violation of Article 10 ECHR.

Judgment by the European Court of Human Rights, Third Section, case of Kablis v. Russia, Application no. 48310/16 and 59663/17, 30 April 2019

https://hudoc.echr.coe.int/eng?i=001-192769

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EUROPEAN UNION

COE: COMMITTEE OF MINISTERS

European Commission: High-Level Expert Group on Artificial Intelligence publishes Ethics Guidelines for Trustworthy AI

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On 8 April 2019, the High-Level Expert Group on Artificial Intelligence (AI), which is an independent expert group set up by the European Commission, published its Ethics Guidelines for Trustworthy AI. The Guidelines are timely, given that both the Council of Europe (see IRIS 2019-4/3) and UNESCO (see IRIS 2019-1/8) have also been examining the benefits and risks of AI, and indeed, on 17 May 2019, the Foreign Ministers of the Council of Europe member States agreed to examine the feasibility of a legal framework for the development, design and application of artificial intelligence.

The purpose of the Guidelines is to promote trustworthy AI, and it sets out a framework for achieving this. The Guidelines contain a lengthy definition of AI systems: software systems designed by humans that, given a complex goal, act in the physical or digital dimension by perceiving their environment through data acquisition, interpreting the collected structured or unstructured data, reasoning on the knowledge, or processing the information, derived from this data and deciding the best action(s) to take to achieve the given goal.

The Guidelines begin by noting that trustworthy AI has three components which should be met throughout the system's entire life cycle: (a) it should be lawful, complying with all applicable laws and regulations; (b) it should be ethical, ensuring adherence to ethical principles and values; and (c) it should be robust, both from a technical and social perspective since, even with good intentions, AI systems can cause unintentional harm.

The 41-page Guidelines are divided into three chapters, with Chapter 1 setting out the foundations of trustworthy AI, grounded in fundamental rights and reflected by four ethical principles that should be adhered to in order to ensure ethical and robust AI: (1) respect for human autonomy, (2) prevention of harm, (3) fairness, and (4) explicability. Chapter 2 then puts forward a set of seven key requirements that AI systems should meet in order to be deemed trustworthy: first, human agency and oversight, where AI systems should empower human beings, allowing them to make informed decisions and fostering their fundamental rights; secondly, technical robustness and safety, which requires that AI systems be developed with a preventative approach to risks; thirdly, privacy and data governance, where AI systems must guarantee privacy and data protection

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throughout a system's entire lifecycle; fourthly, transparency, where the data, system and AI business models should be transparent; fifthly, diversity, non-discrimination and fairness, where unfair bias must be avoided; sixthly, societal and environmental well-being, where broader society and the environment should be considered as stakeholders throughout the AI system's life cycle; and seventhly, accountability, where mechanisms must be put in place to ensure responsibility and accountability for AI systems and their outcomes. Finally, Chapter 3 provides a Trustworthy AI assessment list to operationalise Trustworthy AI which is primarily addressed to developers and deployers of AI systems.

Following publication of the Guidelines, the European Commission will engage in a piloting process during summer 2019 to gather feedback, and the High-Level Expert Group on AI will review the assessment lists for the key requirements in early 2020.

High-Level Expert Group on Artificial Intelligence, Ethics Guidelines for Trustworthy AI, 8 April 2019

https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=58477

Council of Europe Newsroom, Foreign Ministers: towards a legal framework for artificial intelligence, 17 May 2019

https://www.coe.int/en/web/artificial-intelligence/-/foreign-ministers-legal-framework-for-artificial-intelligence-is-a-priority

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EU: EUROPEAN COMMISSION

European Commission: Creative Europe MEDIA publishes an overview of good gender practices

Léa Chochon
European Audiovisual Observatory

During the 72nd Cannes Film Festival, the European Commission, represented by Creative Europe MEDIA, launched the first edition of “Women on the Move” day, unveiling a brochure summarising gender-equality good practices followed by the EU’s audiovisual industry and policymakers.

The brochure is the result of previous discussions during the Berlinale film festival between Creative Europea MEDIA and representatives from the industry and the public sector on the current situation regarding the support given to women within the European audiovisual sector. This was followed by a public consultation to take stock of the existing gender initiatives and measures in order to help to create a framework and a solid basis for future policymaking.

The brochure proposes seven courses of action aimed at addressing existing gender imbalance issues, presenting potential solutions through various relevant and ongoing initiatives already implemented in Europe, as well as ideas for the future, as follows:

1. Combatting stereotypes and sexism. This mainly includes training, financial incentives and seminars designed to challenge the way women and men are portrayed in films and to raise awareness of prejudices and stereotypes. For example, each script submitted for financial support from Eurimages is subjected to the Bechdel test by external script readers.

2. Equal pay. The gender pay gap can be addressed in a number of ways, including collective bargaining, information and awareness-raising through reports and studies (e.g. the Swedish Film Institute’s "The Money Issue", published in 2019), job structures, remuneration schemes and career development policies.

3. Equality in decision making. This concerns mentoring actions targeting women at entry level and beyond, as well as obligations to ensure gender parity among decision-makers in many organisations. In this regard, gender parity on the selection committees of public funding bodies is legally required in several countries, such as Denmark, Spain and Austria.

4. A balance between working life and personal life. This concerns initiatives aimed at balancing the professional career and personal life of female professionals, such as co-parenting policies, awareness-raising campaigns and

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flexible work arrangements.

5. Access to financing. This mainly covers positive discrimination by film funds in terms of the level of grants awarded or bonuses to projects incorporating women in key positions.

6. Preventing violence and harassment. Measures against sexual violence and harassment in the workplace include hotlines, confidential contact persons, information and training on legislation and responsibilities, surveys and anonymous online platforms for collecting testimony.

7. Data collection and policy making. This is a cornerstone of the gender equality agenda. Beyond the collection of gender statistics, this approach also aims to define indicators, raise awareness by analysing and publishing the results, and find a common European methodology of analysis at European level.

Women on the move - Overview of good practices from the audiovisual industry and policy makers in the EU, Creative Europe MEDIA, European Commission

https://ec.europa.eu/information_society/newsroom/image/document/2019-20/women_on_the_move_99DFC54C-DC3A-A84E-3A4ABD12C33BDFF3_59224.pdf

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NATIONAL

CZECHIA

[CZ] Broadcasting Council issues bias fine

Jan Fučík
Česká televize

On 30 April 2019, the Council for Radio and Television Broadcasting decided that the television broadcasting operator Barrandov Televizní Studio was guilty of committing an offence by broadcasting the Moje zprávy (My News) programme on 20 November 2018 at 8.05 p.m. on Barrandov TV. Part of the reportage Ryba smrdí od hlavy (The Fish Stinks from the Head) included allegations of problematic orders that were presented as facts, with stakeholders and those against whom the allegations were made not being able to comment on the alleged facts, and of the case being presented unilaterally without including any relevant opposition statements. The programme presented a clear, predetermined stance and as such, could be considered biased and an attempt to influence the viewers' attitude towards the programme maker's intentions. The operator therefore did not provide the objective and balanced information necessary for the free creation of opinions. The term "objectivity" implies several dimensions, of which the Council considers accuracy to be the most decisive: the report must correspond to reality, it must be transparent, that is to say, journalists must mention their information sources, and journalists must not put their own assessments into the report. This one-sidedness is to be understand as a hidden form of partisanism, where some controversial situations are suppressed in favor of the views of others. In other words, the principle of equilibrium rests on the requirement for the "equal representation of alternatives in the scope and adaptation of reporting". The Council imposed a fine of CZK 200 000 (EUR 8 000) for the offence. The Council's decision can be challenged in court.

Zápis z 8. zasedání Rady z 30. dubna 2019 položka 10

Minutes of the 8th Council meeting of 30 April 2019 item 10

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GERMANY

[DE] Courts decide on NPD European election ads

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The Bundesverfassungsgericht (Federal Constitutional Court - BVerfG) of the Federal Republic of Germany recently took two decisions in urgent proceedings concerning election campaign ads for the NPD political party, while a third case was decided by the Hessische Verwaltungsgerichtshof (Hessian Administrative Court - VGH). A number of public service television and radio broadcasters had refused to broadcast the ads. In two of the three cases, the courts decided that they had been wrong to do so.

Under provisions such as Article 11(1) of the ZDF-Staatsvertrag (Inter-State Agreement on ZDF), political parties and coalitions are entitled to a reasonable amount of airtime on national public broadcasting channels in the run-up to European Parliament elections. There are similar rules at federal state level.

Zweites Deutsches Fernsehen (ZDF) had initially allocated several time slots for the party's campaign ads before refusing to broadcast them on the grounds that they would constitute incitement to hatred. Since the relevant administrative courts and the Bundesverfassungsgericht were in agreement, the broadcaster was allowed to refuse to broadcast the ads.

Incitement to hatred,that is, disturbing public peace by inciting hatred and violence against or defaming segments of the population, is punishable under Article 130 of the Strafgesetzbuch (Criminal Code - StGB). In its European election campaign ad, the NPD claimed that: "Since the arbitrary opening of the border in 2015 and the uncontrolled mass migration that followed, Germans have become almost daily victims of knife-wielding foreigners". A further declaration that "Migration kills!" was followed by a call for the creation of so-called "safe zones" for Germans.

The Bundesverfassungsgericht reached a different decision in the case concerning public service broadcaster Rundfunk Berlin-Brandenburg (rbb), which had legally examined TV election ads for the national ARD channel and, on similar grounds, had refused to broadcast a slightly amended version of the NPD ad. In this case, the court held that there was insufficient certainty that the ad's content would constitute incitement to hatred. Like the administrative courts that had initially heard the case in urgent procedures, rbb had made reference to the party's election manifesto in its interpretation of the ad's content. However, the Bundesverfassungsgericht ruled that the content of the ad itself was the only relevant factor and that, since it did not appear to violate Article 130 StGB, the broadcaster was obliged to show the ad. Radio and television advertising remained an important tool in political parties' election campaigns, so airtime

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needed to be allocated in accordance with the principle of equal opportunities for all political parties.

In early May, a similar decision was reached by the Hessian Administrative Court, which ordered Hessischer Rundfunk (hr) to broadcast a radio election ad and overturned a decision of the Verwaltungsgericht Frankfurt (Frankfurt Administrative Court). In the ad, the NPD had replaced a reference to “knife-wielding foreigners” with an allegation of censorship. According to the court, although broadcasters were not barred from checking whether election ads breached general criminal laws, such an ad could only be rejected if the violation was both obvious and serious. This was no longer the case where the party’s amended advertisement was concerned.

Beschluss des BVerfG vom 27. April 2019 (1 BvQ 36/19)

https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2019/bvg19-032.html

Federal Constitutional Court decision of 27 April 2019 (1 BvQ 36/19)

Beschluss des BVerfG vom 15. Mai 2019 (1 BvQ 43/19)

https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2019/bvg19-036.html

Federal Constitutional Court decision of 15 May 2019 (1 BvQ 43/19)

Beschluss des Hessischen VGH vom 9. Mai 2019 (8 B 961/19)

https://verwaltungsgerichtsbarkeit.hessen.de/pressemitteilungen/hessischer-rundfunk-muss-h%C3%B6rfunk-wahlwerbespot-der-npd-senden

Hessian Administrative Court decision of 9 May 2019 (8 B 961/19)

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[DE] International online platform liable for copyright infringement

Jan Henrich
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In a ruling of 30 April 2019 (Case no. 11 O 27/18), the Oberlandesgericht Frankfurt (Frankfurt Court of Appeal) decided that an internationally-oriented Internet platform on which literary works are published free of charge is liable for copyright infringements in Germany if it publishes German-language works that are not yet in the public domain under German copyright law and claims ownership of their content.

The defendant in this case was a US-based not-for-profit corporation that operates an internationally-oriented website, www.gutenberg.org, from which more than 50 000 books, including some in German, can be downloaded as e-books. The books are uploaded to the platform by members on a voluntary basis. Before they are published, copyright checks are carried out, although only in accordance with US law.

A German publishing house had complained about the distribution of several German-language works on the platform. The publisher, which holds exclusive, comprehensive and geographically unlimited rights to a total of 18 books that can be downloaded from the platform, had sought an injunction for copyright breaches. Its claim was granted in the first instance by the Landgericht Frankfurt (Frankfurt District Court) in February 2018. An appeal to the Oberlandesgericht Frankfurt has now been rejected. Under US copyright law, the disputed works have been in the public domain for several years, but they remain protected under German law.

In the judges' view, German courts have international jurisdiction and German law is applicable because the website's content can be downloaded in Germany. The claims for copyright infringement had been made under German law in accordance with the country of protection principle. The platform had also treated the content uploaded by its members as its own because the books had been listed, together with the platform's own licensing notice, under the heading "our books". The platform was therefore responsible for the copyright breaches. The fact that it did not seek to make a profit was irrelevant.

However, the court ruled that removing the disputed works from the defendant's platform in Germany would be sufficient. The platform was not obliged to remove them completely. Since February 2018, German IP addresses have been blocked by the platform, so only the home page can be viewed and content can no longer be downloaded.

Pressemitteilung des OLG Frankfurt am Main vom 30. April 2019 (Az. 11 O 27/18)

https://ordentliche-gerichtsbarkeit.hessen.de/pressemitteilungen/internationale-

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internet-plattform-f%C3%BCr-literarische-werke-haftet-f%C3%BCr

Press release of Frankfurt am Main Court of Appeal, 30 April 2019 (case no. 11 O 27/18)

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[DE] KJM approves Sky's "Family Feature" as technical system for protecting young people in the media

Jörg Ukrow
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According to the German Jugendmedienschutz-Staatsvertrag (Inter-State Agreement on the protection of minors in the media - JMStV), some telemedia content that may be harmful to minors may only be transmitted if the provider ensures, through closed user groups, that it can only be accessed by adults. Content that may impair the development of children may be distributed if, for example, the provider ensures through a technical system that it cannot normally be accessed by children and young people in the relevant age groups.

On 15 May 2019, the Kommission für Jugendmedienschutz (Commission for the protection of minors in the media - KJM), which comprises 12 representatives of the highest federal and state authorities responsible for youth protection and directors of the Landesmedienanstalten (state media authorities), approved the "Family Feature" concept of Sky Deutschland Fernsehen GmbH & Co. KG as a technical system within the meaning of the JMStV - initially for a two-year period with a renewal option.

The "Family Feature" is designed to give users platform-wide protection for both linear and non-linear content. Under factory settings, a programme-related blocking system is activated as standard. All linear and non-linear content with an age rating of 12, 16 or 18 can only be accessed during the day using a youth protection PIN. As well as this factory setting, two other modes can be selected:

"Individual" mode enables customers to choose from what age (0, 6, 12, 16, 18) and at what times a youth protection PIN should be required. Under this setting, a PIN is requested for any content at or above the chosen age rating. Customers can also decide whether the restriction should apply all the time or only between 6am and 8pm.

Subscribers who, for example, have no children or young people in their household can select the "Off" mode, where no youth protection PINs are requested for any content, including 18-rated programmes.

Every six months, subscribers are asked to check that their youth protection settings are up to date. When allocating a youth protection PIN, which only adult subscribers receive, Sky conducts an age verification process. The PIN is then issued via a KJM-certified e-mail process or directly to the customer along with the reception device.

The KJM has now approved a total of seven technical systems as defined in the JMStV.

Pressemitteilung der KJM vom 16. Mai 2019

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https://www.kjm-online.de/service/pressemitteilungen/meldung/news/kjm-bewertet-weiteres-technisches-mittel-positiv/

KJM press release of 16 May 2019

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[DE] KJM invalidates FSM's assessment of "JusProg" youth protection system

Jörg Ukrow
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 15 May 2019, the Kommission für Jugendmedienschutz (Commission for the protection of minors in the media - KJM), which comprises 12 representatives of the highest federal and state authorities responsible for youth protection and directors of the Landesmedienanstalten (state media authorities), decided that the Freiwillige Selbstkontrolle Multimedia-Dienstleister e.V. (FSM) had exceeded its scope of discretionary power in its assessment of the suitability of "JusProg" as a youth protection system within the meaning of Article 11(1) of the Jugendmedienschutz-Staatsvertrag (Inter-State Agreement on the protection of minors in the media - JMStV). The KJM therefore unanimously declared the FSM's assessment invalid in accordance with Article 19b(2) sentence 1 JMStV. On account of its high level of public interest, the measure, which concerned the only youth protection system ever approved by the FSM, was declared immediately enforceable.

JusProg is a filtering program designed to protect children from inappropriate content on the Internet. It is installed on children's devices, with settings according to the child's age (0+, 6+, 12+ or 16+), and checks in the background whether websites visited by the child are age-appropriate. In order for the system to work, the software checks websites and gives them corresponding age ratings. Websites that the system does not recognise are blocked as a precaution below the 12+ setting, but displayed from age 12+ upwards.

According to the KJM, when assessing the system's suitability, the FSM should have taken into account the fact that JusProg does not cover a significant proportion of children's media consumption because it only works on Windows PCs using the Chrome browser. At the same time, providers are strongly favoured by the filtering system since they can distribute their age-rated content without any additional safeguards, even though the mobile devices and operating systems used by most children and young people are unable to read the age ratings.

The KJM believes a youth protection system must work across all platforms and devices and be oriented towards user behaviour. Otherwise, children and young people would not be protected in the areas where they spend most of their time online and there would be a significant gap in protection, which is incompatible with the objective of an effective youth protection system.

Despite the KJM's decision, the "JusProg" youth protection system can still be used, so providers can continue to label their own websites with an age rating. However, the mere use of an age rating no longer gives them the privileged status that previously applied if they met their obligations under the Jugendmedienschutz-Staatsvertrag, and does not mean their services are compliant with youth protection rules. Rather, as a result of the KJM's decision, in

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order to ensure their service complies with youth protection law, providers of websites with harmful content must take other measures to make it impossible or very difficult for children and young people to watch such content. According to Article 5(3) JMStV, this can be achieved by imposing time restrictions (for example, making 18-rated programmes only available between 11 p.m. and 6 a.m.) or using other technical barriers (for instance, a youth protection PIN or an age check based on an identity card number).

Pressemitteilung der KJM vom 15. Mai 2019

https://www.kjm-online.de/service/pressemitteilungen/meldung/news/kjm-stellt-fest-beurteilung-der-fsm-zur-eignung-von-jusprog-als-jugendschutzprogramm-ist-unwirksa

KJM press release of 15 May 2019

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[DE] New online rules for public service broadcasters enter into force

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Under the amended German Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV), which came into force on 1 May 2019, some of the rules governing the public service broadcasters' telemedia remit have been revised. The RStV, an agreement between the German Bundesländer concerning broadcasting and telemedia, is one of the legislative cornerstones of Germany's dual broadcasting system.

In the document that entered into force in May, the rules on the retention time of public broadcasters' programmes in online media libraries were relaxed. The so-called "seven-day rule", under which public service broadcasters were normally allowed to make their television and radio programmes available online for only seven days after their linear broadcast, was more or less abolished. However, numerous exemptions had meant that the rule had, in reality, hardly ever been applied.

For the first time, the Rundfunkstaatsvertrag now contains clear instructions on interactive communication and social media use. Provisions have also been added to improve the online linking of the telemedia content of different broadcasters. Public service broadcasters' media libraries are currently separate, which means that search results on one broadcaster's platform do not contain any links to the programmes of other public channels. The reformed telemedia remit is now being seen as the first step towards the creation of a "public service ecosystem".

One point of contention in recent years has been the distinction between public broadcasters' online services and the digital services of newspaper publishers. In accordance with a compromise reached as part of the reforms, the online services of ARD, ZDF and Deutschlandradio will, in future, be required to focus primarily on moving images and sound. Their telemedia offerings will not be allowed to be "press-like", with the exception of overviews of what is on offer, headlines, broadcast transcripts and accessibility measures. Telemedia providing content from a specific broadcast, including background information, are also exempt from this rule. A joint arbitration body with equal representation of broadcasters and press organisations will be set up to deal with disputes.

Another, more comprehensive draft amendment to the Rundfunkstaatsvertrag is already being discussed. As part of this amendment, new rules will be introduced for media platforms and programme guides as well as for media intermediaries such as search engines, social networks and blogging portals, including with a view to the implementation of the revised Audiovisual Media Services Directive.

Rundfunkstaatsvertrag in der Fassung vom 1. Mai 2019

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https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Rundfunkstaatsvertrag_RStV.pdf

Inter-State Broadcasting Agreement, version of 1 May 2019

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SPAIN

[ES] Fiscal and labour measures for the protection of creators and artists

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On 6 September 2018, the Plenary of the Congress of Deputies approved the report of the subcommittee for the elaboration of the Statute of the Artist, through which the government was requested to approve urgent measures which would improve the working conditions of Spanish creators. The Statute of the Artist includes up to 75 suggestions and measures in the domains of tax nature, labour protection and social security as well as the compatibility between retirement benefits and income from copyright, whose ultimate purpose is to try to adapt the regulatory scheme applicable to the specificities of artistic work.

In the hurry to comply with the provisions of the aforementioned report, on 29 December 2018, Royal Decree Law 26/2018 (Real-Decreto ley) of 28 December was published in the Official State Gazette (Boletín Oficial del Estado), approving emergency measures regarding the creation of artistic and cinematographic works. In the first place, in the area of tax, Title I of the said Royal Decree-Law modifies Law 35/2006 of 28 November on Personal Income Tax and, partially, the Laws of the Corporate Tax on the Income of Non-Residents and on Property, reducing the percentage of the withholding tax and on account income over the yields from movable capital derived from intellectual property (from 19% to 15%) when the taxpayer is the author.

Secondly, Law 37/1992 of 28 December on Value Added Tax (VAT) has been amended in order to apply the reduced rate of 10% to services provided to producers and organisers of works and cultural shows by individuals working as interpreters, artists, directors or technicians. Thirdly, Law 27/2014 of 27 November on Corporation Tax has been modified, allowing a deduction of 20% for those expenses incurred on the Spanish territory in the execution of the foreign production of feature films or audiovisual works, provided that the expenses of the said production amount to at least one million euros. The amount to be deducted for each production may not exceed three million euros.

Next, Title II of this legal text modifies Article 249b of the revised text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October, which establishes that artists in public shows may continue to be included in the General Social Security Scheme during their periods of inactivity on a voluntary basis, provided they credit at least 20 days registered with real provision of services in the said activity during the previous year, having to exceed the remuneration received for those days to the amount of three times the minimum statutory wages in monthly computation. Finally, in the second final

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provision, it was established that the government, within a maximum period of six months from the publication of the Royal-Decree Law, should proceed to the approval of a regulatory rule that, in development of Article 213 of the revised text of the General Law on Social Security, regulates the compatibility of the retirement pension with the activities of those professionals dedicated to artistic creation who receive intellectual property rights for that activity.

In order to comply with the provisions of the previous provision and its development, on 26 April 2019, the government approved Royal Decree 302/2019, which regulates the aforementioned compatibility of the contributory retirement pension and the activity of artistic creation. The personal scope included in Article 2 of this Royal Decree provides that the beneficiaries of a contributory retirement pension who perform an activity of artistic creation for which they receive income derived from intellectual property rights, may benefit from the aforementioned compatibility; including those generated by their transmission to third parties, regardless of whether they receive other related remuneration for the same activity.

Regarding the compatibility scheme of artistic creation contained in Article 3, it will be compatible with 100% of the amount that the beneficiary receives or, in this case, was receiving for the contributory retirement pension. Similarly, artistic creation activity will be compatible with receiving 100% of the maternity leave allowance. In this sense, the beneficiary will be considered a pensioner for all purposes. Finally, and as stated in Royal-Decree Law 26/2018 in its second final provision, the recognition of compatibility should be accompanied by a solidarity contribution of 8%, which in case of being employed by others, should be split between the employer (6%) and the employee (2%).

Other measures that are included in the report of the Statute of the Artist, and which are still pending for special regulation are, for example, the risk benefits for pregnancy and maternity prior to childbirth, union representativeness and the deduction of expenses from work income for training and work equipment.

To conclude, what is aimed to be achieved through the Statute of the Artist and its gradual legislative expression is the vindication of the professionalisation of cultural sectors. It is about improving the working conditions of creators and highlighting the importance of culture, seeking fair protection and remuneration for authors and artists, and equating their activity to that of other workers.

Informe de la Subcomisión para la Elaboración de un Estatuto del Artista

http://www.congreso.es/backoffice_doc/prensa/notas_prensa/61825_1536230939806.pdf

Report by the sub-commission for the Drafting of a Statute of the Artist

Real-Decreto ley 26/2018, de 28 de diciembre, por el que se aprueban medidas de urgencia sobre la creación artística y la cinematografía

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https://www.boe.es/diario_boe/txt.php?id=BOE-A-2018-17990

Royal Decree-Law 26/2018, of December 28, which approves emergency measures on artistic and cinematographic creation

Real Decreto 302/2019, de 26 de abril, por el que se regula la compatibilidad de la pensión contributiva de jubilación y la actividad de creación artística, en desarrollo de la disposición final segunda del Real Decreto-ley 26/2018, de 28 de diciembre, por el que se aprueban medidas de urgencia sobre la creación artística y la cinematografía

https://www.boe.es/diario_boe/txt.php?id=BOE-A-2019-6298

Royal Decree 302/2019, of April 26, which regulates the compatibility of the contributory retirement pension and the activity of artistic creation, in development of the second final provision of Royal Decree-Law 26/2018, of 28 December

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FRANCE

[FR] Broadcast of a report on events covered by proceedings in the criminal courts - Conseil d'État upholds notice served by CSA on France Télévisions

Amélie Blocman
Légipresse

In its "Envoyé Spécial" ("Special Envoy") programme broadcast on France 2 on 14 December 2017, the national broadcaster, France Télévisions, broadcast a report entitled "Celles qui accusent" ("The Women who Accuse") covering events denounced by two women who had worked at their local municipal offices, which had resulted in the mayor of the municipality, who was also a former government minister, being brought to court on criminal charges of rape. Two days before the broadcast, the events had been examined by the criminal court (cour d'assises) in Bobigny. The report focused on one of the two people who had applied to be allowed to participate as civil parties in the criminal proceedings. In a decision made public on 11 April 2018, the regulatory authority for the audiovisual sector (Conseil Supérieur de l'Audiovisuel - CSA), considering that the content of the report show a lack of restraint by referring to a current criminal court case, and noting that it had been broadcast just hours after the civil party concerned had been heard and before the jury was to deliberate - served official notice on France Télévisions to abide by Article 35 of its contractual requirements in future; this covers "the broadcasting of programmes, images, remarks and documents relating to court proceedings".

The France Télévisions called on the Conseil d'État to cancel the decision on the grounds that the CSA had overstepped its powers. The Conseil d'État observed that the aim of the notice served by the CSA was to make it possible to embark on a sanction procedure in the event that France Télévisions were to act in a similar fashion in the future. It noted that such a measure - which was provided for in the Act of 30 September 1986 on freedom of communication - could be adopted if it was necessary in order to ensure that the reputation and rights of others were protected and that the impartiality of the legal authority in question was guaranteed. In the case at issue, the Conseil d'Etat held that, given the content of the report at issue and the timing of its broadcasting, the CSA's serving of such notice on France Télévisions did not constitute a disproportionate infringement of freedom of expression.

The applicant company wanted to request the European Court of Human Rights to give an advisory opinion (on the basis of Protocol 16 to the Convention, which covers compliance with Article 10 of the Convention) on the administrative authority's interference in the freedom of expression of journalists following the broadcasting of a report on current legal proceedings involving a public figure, even though the authority recognised that in this instance there had been no disregard for the presumption of innocence of the person being prosecuted. The

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Conseil d’Etat found that there was no need to call on the European Court of Human Rights to give its opinion.

Conseil d'État, (5e et 6e ch. réunies), 13 mai 2019, France Télévisions

http://www.conseil-etat.fr/fr/arianeweb/CE/decision/2019-05-13/421779

Conseil d'Etat, (5th and 6th chambers together), 13 May 2019, France Télévisions

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[FR] Decision by Competition Authority on historic channels' exercise of preferential rights for films originally made in French

Amélie Blocman
Légipresse

The French Competition Authority (Autorité de la Concurrence) received an application from the companies Groupe Canal Plus, D8 and D17 (which have since become C8 and C Star) denouncing the practices applied by TF1, France Télévisions and Métropole Télévision in the marketplace for the acquisition of rights in respect of 'catalogue' cinematographic works originally made in French (œuvres cinématographiques d'expression originale française - referred to as 'EOF films'). The obligations to invest in cinematographic production incumbent on the free DTT channels are set out in Decree No. 2010-747 of 2 July 2010.

The applicants claimed that the historic unencrypted channels restrict the access of the other free DTT channels to catalogue EOF films by including priority and pre-emption clauses in all the pre-financing contracts they conclude with film producers. It is claimed that, in practice, these clauses enable the channels to reserve broadcasting of the films concerned for their own or affiliated channels (TMC for TF1, W9 for M6) with no time limit, to the detriment of their competitors, even though the pre-purchased broadcasting has already taken place. The applicants therefore claimed that this constituted an anti-competitive cartel agreement between the historic unencrypted channels and the producers of EOF films, with the cumulative effect of blocking access by channels not associated with a historic unencrypted channel to the rights to broadcast catalogue films made in French.

The Authority noted that the pool of catalogue films the free DTT channels can draw on when compiling their programming schedules in order to meet their obligations to broadcast EOF films is particularly large (more than 8000 films). It also noted that rights to priority and pre-emption could only be exercised in respect of 20% of the French films in this pool, since such rights over the films they contribute to financing were not stipulated by the unencrypted channels until the 1990s, representing only a fraction (about 20%) of the catalogue films available. On investigation, the Authority found during the period observed that rightsholders pre-empted less than 8% of the films that could be pre-empted. It deduced from this that it was not possible to claim that the agreements at issue were likely to result in a sufficiently significant cumulative blocking effect such as to require that the competitors of the companies at issue be prevented from ensuring they obtained rights to broadcast catalogue EOF films.

Autorité de la concurrence, 27 mai 2019, Décision n° 19-D-10

http://www.autoritedelaconcurrence.fr/pdf/avis/19d10.pdf

Competition Authority, 27 May 2019, Decision No. 19-D-10

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[FR] First urgent application to block dissemination of a tweet under the Act on combating the manipulation of information

Amélie Blocman
Légipresse

For the first time, the Paris Regional Court has dealt with an urgent application aimed at blocking the dissemination of “fake news” during an election campaign in a procedure introduced under the Act on combating the manipulation of information of 22 December 2018.

On 10 May 2019, an MEP and a Left Front senator filed a summons against Twitter under Article L. 163-2 of the Electoral Code, which was introduced under the above-mentioned Act. They requested that the platform be ordered to block the dissemination of the following tweet, which had been published on the French Interior Minister’s account on 1 May in response to news that protesters had entered the Pitié Salpêtrière hospital during a “gilets jaunes” (yellow vests) demonstration in Paris: “Here at Pitié-Salpêtrière, a hospital was attacked. Medical staff were assaulted. And a policeman deployed to protect them was injured. Unwavering support for our law enforcement agencies: they are the pride of the Republic.” On 17 May, more than two weeks after the disputed message had been published, the Paris Regional Court issued its decision under the urgent procedure.

Before examining the application, the court reiterated the reservations set out in the Constitutional Council’s decision no. 2018-773 DC of 20 December 2018 - namely, that inaccurate or misleading allegations or statements do not include partial inaccuracies or simple exaggerations, but only allegations or statements whose inaccuracy can be objectively proven. In addition, the inaccurate or misleading nature of the allegations must be “clear”, as must the risk that they might might unduly affect voting behaviour in elections. Finally, their dissemination must be deliberate, either artificial or automated, and on a massive scale.

Referring to written press articles in Le Figaro and Le Monde, the applicants claimed that the allegations contained in the disputed tweet had proved to be false and that the events had never taken place. In the court’s view, the public prosecutor’s investigation should have identified the intentions of the protesters, who appeared to have stormed the hospital gates. However, it is understood that they did not attack the intensive care unit but remained outside the building, and that no medical staff were injured. The judges held that, although the Interior Minister’s message appeared exaggerated, it was based on real facts - i.e. the protesters’ intrusion onto hospital premises. The condition that the allegation must be “clearly” inaccurate or misleading was therefore not met.

The judges then considered the requirement that dissemination be artificial or automated. They pointed out that, according to parliamentary discussions, this

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term referred to sponsored content - i.e. the payment of third parties to artificially broaden the dissemination of information, and content promoted using automated tools such as bots. Therefore, since there was no evidence that such methods had been used to disseminate the disputed tweet, the application did not fall under the scope of Article L. 163-2 of the Electoral Code.

Finally, the court assessed whether there was a “clear” risk that the sincerity of the vote would be affected. The applicants had claimed that the Interior Minister’s message had been designed to make people believe there was a violent atmosphere and to stir up fear and chaos, which they thought was bound to disrupt the European election campaign. However, the judges stressed that the tweet had not overshadowed public debate because it had been immediately disputed in numerous articles in the written press and online, which suggested that the events had not occurred in the manner described by the Interior Minister. The different versions therefore meant that each voter could form an informed opinion, with no clear risk of manipulation.

In conclusion, the conditions laid down by the new law were therefore not met in this case and the blocking request was rejected. To the best of our knowledge, this is the only “fake news” procedure that has been launched in relation to the European elections.

Tribunal de grande instance de Paris, (ord. réf.), 17 mai 2019, Mme V. et M. O.

Paris Regional Court (urgent procedure), 17 May 2019, MMe V. and M. O.

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[FR] Social network regulation taskforce presents its report

Amélie Blocman
Légipresse

A year after it was launched last May by Emmanuel Macron and Mark Zuckerberg, and shortly before the French President and Facebook's CEO met again at the Elysée Palace, the social network regulation taskforce published its report on 10 May. The taskforce's remit was to lay the ground for a general regulatory framework, building on the fight against online hate speech and relying on Facebook's voluntary cooperation outside any legal framework. Discussions between Facebook and the taskforce have been held, for example, at several meetings in Paris, Dublin (home of Facebook's European headquarters) and Barcelona (where one of its moderation centres is located). These discussions should feed into various parliamentary debates in the coming months, in particular the debate concerning the Avia bill on the fight against hate on the Internet, which will be held at the National Assembly in July.

The current move towards social network self-regulation is interesting, according to the report, in so far as it shows that the platforms can be part of the solution to the problems that have been noted. They came up with a variety of answers, such as content withdrawal, minimising the exposure of users to certain content, a reminder of common rules, education and victim support. However, self-regulation is still under development. On too many occasions, it merely proposes an ex-post response (after the damage has been done) and lacks credibility. The taskforce recommends state intervention that balances the punity policy that is indispensable to effectively combat those responsible for abusive behaviour with increased accountability of social networks on the basis of ex-ante regulation - all within a European framework that should be redefined. In this respect, the report notes that the current rule that states that social networks can only be regulated in the country in which they have their headquarters is ineffective. It therefore recommends setting up a European regulatory system founded on the principle that jurisdiction lies with the destination country. This requires a common framework that lays down standard obligations defined at European level through directly applicable regulations (such as "net neutrality" rules), guaranteeing consistent, uniform legal standards across all territories. Each state would therefore become responsible for implementing common regulations on its own territory.

The taskforce also suggests creating a regulatory policy based on a compliance approach, which should be refined in an agile manner so that it can be quickly adapted to changes in social networks. For example, it proposes setting up a national administrative body to be responsible for promoting social network accountability. Operators may be subject to obligations regarding the transparency of key functions such as moderation and the use of algorithms that target users and tailor content. Only the largest platforms should be subject to these obligations and to compliance checks by the regulator. Medium-sized

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services should be assumed to be compliant, while the smallest platforms should not be subject to sanctions by the regulator, which would still be able to refer suspected criminal offences to the public prosecutor.

"Créer un cadre français de responsabilisation des réseaux sociaux : agir en France avec une ambition européenne", Rapport de la mission « Régulation des réseaux sociaux – Expérimentation Facebook » remis au Secrétaire d'État en charge du numérique, mai 2019

https://www.numerique.gouv.fr/uploads/rapport-mission-regulation-reseaux-sociaux.pdf

Report of the social network regulation taskforce, 10 May 2019

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[FR] Towards a new chapter for public film policy?

Amélie Blocman
Légipresse

On 13 May 2019, the President of the Republic announced the creation of a EUR 225 million public investment fund to support companies in the cultural sector and the development of equity loans in the sector. The announcement followed the publication of a report by Dominique Boutonnat on the private financing of film and audiovisual production and distribution.

Everyone in the film and audiovisual industries agrees that the funding of French audiovisual production is about to be radically transformed. They point to a number of warning signs, including a structural decline in the average budget of French films, ongoing economic difficulties affecting distribution, doubts over broadcasters' investment capacity, and a rapid rise in the power of digital platforms. However, the current French system is already highly regulated, with financial aid from the CNC and local authorities, compulsory contributions from broadcasters for the pre-financing of new productions, fiscal measures (reduced VAT rate for cinema tickets and pay-TV subscriptions), sophisticated regulation between stakeholders in the sector, etc. Public funding in the strict sense of the term accounts for around 25% of production financing, a figure that is unlikely to increase any further in view of state budgetary constraints. According to the report's authors, if things remain the same, French production could be severely weakened or fall into foreign hands and lose its independence. French film production, and distribution in particular, must therefore be given resources, especially financial, in order to become more independent and produce ambitious works.

The report suggests that private funding could be an essential means of meeting these objectives. The entire film and audiovisual production ecosystem must therefore be transformed within the next three to five years in order to create market conditions that can incorporate private funding. The report makes several recommendations along these lines. Firstly, a market value should be reinstated for all exploitation windows within a revised media chronology by increasing television companies' interest in films, modernising their investment obligations, reopening prohibited days and allowing distributors (in agreement with producers) to evaluate the best strategy for releasing films in the various windows once they are finished, without necessarily showing them in cinemas.

The report also recommends making use of new digital tools such as blockchain, which offers full trackability, automatic execution and the direct real-time distribution of revenue to rightsholders. The report also reaffirms the CNC's vital role as regulator and trusted third party to oversee the steady transition of the sector. It suggests increasing the CNC's economic powers and redesigning the aid system to make it simpler and easier to understand. Finally, it recommends strengthening international action and launching a study on the private financing of production and of foreign distribution in the major film-producing countries.

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Rapport sur le financement privé de la production et de la distribution cinématographiques et audiovisuelles, Dominique Boutonnat, décembre 2018

http://www.culture.gouv.fr/content/download/213135/2238707/version/1/file/Rapport%20de%20M.%20Dominique%20Boutonnat.pdf

Report on the private financing of film and audiovisual production and distribution, Dominique Boutonnat

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UNITED KINGDOM

[GB] Age-appropriate design

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Under section 123 of the Data Protection Act, the Information Commissioner must prepare a code of practice that contains such guidance as the Commissioner considers appropriate in respect of standards regarding the age-appropriate design of relevant "information society" services that are likely to be accessed by children.

The Code must be presented to Parliament; thereafter, under section 127, it must be taken into account by the Commissioner when considering whether an online service has complied with its data-protection obligations. The Commissioner in drafting the code is required to consider the fact that children have different needs at different ages; the Commissioner must also take into account UK's obligations under the UN Convention on the Rights of the Child (UNCRC) - including the obligation to act in the "best interests" of each child. She must consult a range of people (listed under s. 123(3)), including children, parents, child development specialists and trade associations. A draft code has been published for comment; the consultation period ended on 31 May 2019.

The draft code applies to information society services, defined as having the same meaning as in that specified in the GDPR (save that preventive or counselling services are not included), which process personal data. Given the reference to the UNCRC, the Code applies to data of children under the age of 18 (by contrast to the digital age of consent for the UK, which is 13), although the Code distinguishes between 5 different age groups. A service need not be aimed at children to be caught by the Code; if it is likely that children will use the service then the Code applies. There have been some concerns that the Code will affect news and media outlets online.

The Code identifies 16 principles which develop the basic data protection principles in the GDPR. The primary consideration, however, is the best interests of children, as understood in Article 3 of the UNCRC. Information Society service (ISS) providers may deviate from some of the principles identified where there is a compelling case but this must always be weighed against the best interests of the child and, as the draft Code makes clear, it is "unlikely… that the commercial interests of an organisation will outweigh a child's right to privacy". In addition, the Code identifies principles relating to: age appropriate application; transparency, (prohibition on) detrimental use of data (e.g. marketing techniques and 'sticky' features); policies and community standards; default settings; data minimisation; (prohibition on) data sharing; geolocation; parental controls; profiling; nudge techniques; connected toys and devices; online tools; data protection impact assessments; and governance. The defaults on services must be privacy enhancing: geolocation and profiling must be off by default. Data

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collection must offer choice to the user but in general should collect only those data necessary to provide the service. As regards transparency, for children the ICO requires “bite sized” notices to be provided at the point at which personal data is used and the notices must be tailored to the five age categories - that is, ‘age appropriate’. Children must also be informed as to when parental controls are active. The Code requires ISS providers not only to uphold privacy policies but also, more generally, user policies. Prominent and easy-to-use tools should be provided to help the user.

Age appropriate design: a code of practice for online services. Consultation document

https://ico.org.uk/media/about-the-ico/consultations/2614762/age-appropriate-design-code-for-public-consultation.pdf

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[GB] Prince Harry accepts damages from paparazzi agency over helicopter snaps of his home

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On 16 May 2019, Prince Harry, Duke of Sussex, settled privacy and data protection claims against Splash News and Picture Agency, who used a helicopter to take photographs of his home in Oxfordshire.

The property is located in a secluded area surrounded by private farmland which is not accessible to photographers. In January 2019, Splash, a paparazzi agency which takes and syndicates images for commercial gain, chartered a helicopter which flew over Prince Harry's home at low altitude allowing it to take photographs "of and into the living area and dining area of the home and directly into the bedroom."

The photographs were subsequently published in The Times and other online news outlets without the Duke's consent. The prominent member of the Royal Family complained that the agency's actions amounted to misuse of private information, breach of his right to privacy under Article 8 ECHR and the General Data Protection Regulation. The Duke sought to have the material in question removed from the respective websites on the grounds that the publication of the photographs undermined his safety and security, including that of his family, "to the extent that they are no longer able to live at the property."

In a High Court hearing before Mr Justice Warby in May 2019, the solicitors acting for the claimant confirmed that Splash had apologised to the Duke. The agency gave undertakings that they would "cease and desist from selling, issuing, publishing or making available the photographs or any photographs which are the same or colourably similar". They also undertook that they would not use again in the future any aerial means to take photographs or film footage of the Duke's private home that would infringe his privacy and data rights or otherwise constitute unlawful activity. Finally, Splash agreed to pay "a substantial sum" in damages and legal costs.

HRH The Duke of Sussex v Splash News and Picture Agency Ltd & Ors (Unilateral Statement in Open Court, 16 May 2019)

https://www.harbottle.com/wp-content/uploads/2019/05/Statement-in-Open-Court-16-May-2019.pdf

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[GB] The Supreme Court considers how alleged defamatory words in a Facebook post are interpreted by the hypothetical reader

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The Supreme Court determined that the defendant's words published on Facebook were not defamatory. The original trial judge was wrong to confine his meaning of the words to two dictionary definitions, and failed to properly consider the post's context whereby readers would momentarily glance at words and not apply "a lawyerly analysis".

Nicola Stocker (the defendant) and Ronald Stocker were spouses, but their marriage ended with Mr Stocker subsequently forming a relationship with Ms Bligh. On 23 December 2012, a Facebook exchange occurred with Mrs Stocker informing Ms Bligh that Mr Stocker had "tried to strangle" her. Mrs Stocker made references to Mr Stocker's conduct, including him being removed from their home following various threats that appeared to breach an injunction against Mr Stocker.

Mr Stocker claimed defamation against Mrs Stocker arguing that the words "tried to strangle me" meant he had tried to kill her. Mrs Stocker denied that interpretation, claiming that the words would be understood to mean that Mr Stocker had grasped her by the neck and had inhibited her breathing so as to induce fear of being killed.

The original trial judge Mr Justice Mitting suggested that the parties should apply the Oxford English Dictionary meanings for the verb "strangle": (a) to kill by external compression of the throat, and (b) to constrict the neck or throat painfully. Mitting J accepted evidence that police officers had seen red marks on Mrs Stocker's neck two hours after the incident and decided that: "The most likely explanation about what happened is that [Mr Stocker] did in temper attempt to silence [Mrs Stocker] forcibly by placing one hand on her mouth and the other on her upper neck under her chin to hold her head still. His intention was to silence, not to kill."

Mitting J's judgment referred to the dictionary definitions saying that if Mrs Stocker had used the phrase "he strangled me", an ordinary reader would have understood her to mean "strangle" in the sense of a painful construction of the neck; however, since Mr Stocker had succeeded in painfully constricting Mrs Stocker's neck, the phrase "tried to strangle" could not refer to "strangle" in that sense. The judge concluded that "tried to strangle" meant that Mr Stocker had attempted to kill Mrs Stocker, thus rejecting Mrs Stocker's defence of justification.

Upon appeal, the Court of Appeal said that the use of dictionaries did not determine the natural and ordinary meaning of words but considered that no

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harm had been caused as Mitting J had only used the dictionary definitions as a check, thus dismissing Mrs Stocker's appeal, and she then successfully appealed to the Supreme Court. Their judgment concluded that Mitting J had erred in law by confining his interpretation to two dictionary definitions and by failing to properly consider the context of the Facebook post. Mitting J had not used the dictionary definitions as a guide but had attributed them as the only possible meanings to the words.

Where a statement has more than one plausible meaning, the question of whether defamation has occurred can only be answered by deciding which single meaning should be given to the statement. The court's prime obligation is to consider how the ordinary reasonable reader would construe the words and it should be particularly conscious of the context in which a statement is made. The hypothetical reader should be considered to be a person who would read the publication. It was a critical factor that the words were conveyed in a Facebook post and the judge should keep in mind how such postings are made and read. Facebook is a casual medium like a conversation rather than a carefully chosen expression. People's reaction to Facebook posts is impressionistic and fleeting.

Mitting J's restrictive interpretation of the words was a legal error, as was the failure to consider how an ordinary Facebook reader would have understood the post. Based on the context of these facts, an ordinary reader would have interpreted the post as meaning that Mr Stocker had grasped Mrs Stocker by the throat and had applied force to her neck, thus supporting her defence of justification for the words she had posted.

Stocker (Appellant) v Stocker (Respondent) [2019] UKSC 17 On appeal from [2018] EWCA Civ 170 - judgment 3rd April 2019. Presiding judges: Lord Reed (Deputy President), Lord Kerr, Lady Black, Lord Briggs, Lord Kitchin

https://www.supremecourt.uk/cases/docs/uksc-2018-0045-judgment.pdf

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ITALY

[IT] AGCOM sets forth new guidelines defining the restrictions on gambling and betting advertisements

Ernesto Apa & Eugenio Foco

On 18 April 2019, through Resolution No. 132/19/CONS, the Italian Communications Authority (AGCOM) issued guidelines (Guidelines) to implement the provisions of Article 9 of the so-called Dignity Decree ("Decreto Dignità", Decree Law No. 87/2018).

The Guidelines aim at achieving a high degree of consumer protection, with particular emphasis on "vulnerable" categories (gambling addicts, minors and seniors) by ensuring the transparency of conditions and services offered in order to promote an educated gaming choice. Consumer protection is also ensured by using the recognisable logos of the Customs and Monopolies Agency (Agenzia delle dogane e dei monopoli), making it easier to distinguish between illegal and authorised games offering cash prizes.

Under Article 9 of the Dignity Decree, any form of advertising, sponsorship or communication presenting promotional content relating to games or betting with cash prizes is prohibited. The said prohibition encompasses any form of advertising, including indirect advertising, relating to games or betting with cash prizes, however carried out and by whichever means, including TV and radio broadcasting, the press, billboards, the Internet, digital and electronic tools, and social media.

Interestingly, the ban, whose objective scope of application is laid down in Article 5 of the Guidelines, has been extended to product placement and prize-winning events as defined by Presidential Decree No. 240 of 26 October 2001. Furthermore, reflecting the approach already adopted by the Italian Competition Authority (AGCM), Article 5.2 specifically mentions influencers in an attempt to safeguard consumers from advertising initiatives undertaken by the former.

The Guidelines clarify that existing advertising agreements as of 14 July 2018 will remain valid for a year or until their expiration date, if earlier. Furthermore, Article 6.2 extends the ban to sponsorship agreements starting from 1 January 2019, with the sole exception of those existing as of 14 July 2018, which will remain valid for a year or until their expiry date, if earlier.

The Guidelines do exclude certain activities from the ban. In particular, Article 7 permits, among others: i) business-to-business commercial communications; ii) the organisation of paid gaming fairs directed exclusively at sector operators; iii) cause-related marketing communications (aimed at associating a company's brand with social and ethical initiatives); iv) corporate social responsibility

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communications (such as informational campaigns on banned games or games only prohibited for minors, legal gambling information, the risks of loan-sharking, courses on gambling addiction, or the implementation of precautionary measures in relation to problematic gamblers) without displaying a brand or logo; and v) teleshopping for goods and services related to paid games (only when certain conditions are met). Furthermore, the Guidelines also clarify that services providing information on the different odds offered by competing bookmakers, such as the so-called odds spaces ("spazi quote") or the columns hosted by television or web sports programmes, are also excluded from the ban. Additionally, algorithm-based free indexing services provided directly by search engines or a marketplace (such as Apple Store or Google Play) that enable operators to obtain a higher placement in search results are also excluded.

Overall, the Guidelines have been issued by the Italian Communications Authority in an attempt to coordinate the new rules with the complex regulatory framework on the subject and the principles set forth in the Italian Constitution and by EU Law.

Autorità per le garanzie nelle comunicazioni, All. A, Linee guida sulle modalità attuative dell'art. 9 del decreto-legge 12 luglio 2018, n. 87, recante "disposizioni urgenti per la dignità dei lavoratori e delle imprese", convertito con modificazioni dalla legge 9 agosto 2018, n. 96

https://www.agcom.it/documents/10179/14467561/Allegato+26-4-2019/7e8dd234-9b83-4e2a-bc5a-f912bc6cdfa2?version=1.0

AGCOM, Annex A, Guidelines on the Implementation Modalities of Article 9 of the decree-law 12 July 2018, n. 87, containing "urgent provisions for the dignity of workers and businesses", converted with amendments by the law of 9 August 2018, n. 96

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NETHERLANDS

[NL] Dutch broadcaster not liable for infringing former mayor's right to private life

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On April 30th, 2019, the Amsterdam Court of Appeal ruled that the PowNed broadcasting organisation was not liable for broadcasting secretly taped private conversations between a former Dutch mayor and a 24-year old man with whom he was romantically involved. The Court thus overturned a judgment of 31 August 2016 delivered by the District Court of Amsterdam (see IRIS 2016-10/21).

The facts of the case revolve around Onno Hoes, who during his time as mayor of the Dutch city of Maastricht became involved in a marital scandal in 2013, when he was seen kissing another man. A year later, when the initial media storm and the political uproar surrounding the events had died down, PowNed discovered that Hoes had become romantically involved with yet another man. With help from PowNed, this man had secretly taped two meetings between Hoes and himself. The conversations between the two, during which explicit sexual language was used, were then broadcast by PowNed. As a result of the incident, in the summer of 2015, Hoes' position became untenable and he resigned from his post. Hoes subsequently initiated proceedings in which he claimed PowNed was liable for both the material and non-material damage he said he had suffered and possibly would suffer in the future, arguing that PowNed had infringed his right to a private life. Moreover, he wanted PowNed to keep the material off the Internet and never to use it again.

The District Court had ruled that, while the use of hidden cameras and microphones was a proportionate means to report on such a matter of public debate, the broadcasting of the material had been disproportionate, given that, inter alia, the matter was already in the public domain. The court, weighing the mayor's right to private life against PowNed's right to freedom of expression, had eventually ruled that PowNed was indeed to be held liable; it had prohibited PowNed from using the recorded material.

In the appeal procedure, PowNed argued that the District Court had interpreted the scope of the right to freedom of expression too restrictively and had applied incorrect standards in respect of the broadcasting of the secretly recorded material.

The Court of Appeal affirmed that the fundamental rights, as well as the interests, of both parties had to be balanced, and it reiterated that this required all relevant factors and circumstances to be taken into account. The court acknowledged on the one hand PowNed's interest, as a public service broadcaster, in reporting in a critical, informative or cautionary way during a news programme on matters that it deemed to constitute societal malpractice. On the other hand, the court

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recognised the mayor's right not to be accused lightly, as well as his right to private life. In balancing the parties' interests, the court identified three factors of particular importance. Firstly, the court established that the mayor, as a public figure, had to be prepared to tolerate a higher degree of scrutiny that would normally be the case - in this case even in respect of matters concerning his private life. Pointing to several of the mayor's own declarations, the court noted that it was partly owing to his own actions that events in his private life had become linked to his political functioning as mayor. Secondly, the Court of Appeal agreed with the District Court that the use of hidden cameras and microphones had been a proportionate means of reporting on this matter and thereby contributing to a debate of general interest. The Court of Appeal did not accept the mayor's argument that he had been lured into a trap by PowNed, as he himself had been largely responsible for seeking out contact with the man. Thirdly, the court considered whether it had been necessary for PowNed to broadcast the material. In this context, the court acknowledged that this had constituted a large infringement of the mayor's right to private life. It ruled, however, that as the recordings had been made in public spaces and as the effects had been somewhat mitigated because they had only been broadcast around the time of occurrence of the events in question and had not also been made available to other parties or online, the broadcasting of the material could not considered to be unlawful. Therefore, overturning the judgment of the District Court, the Court of Appeal ruled that PowNed was not liable for broadcasting the material.

Gerechtshof Amsterdam, 30 April 2019, ECLI:NL:GHAMS:2019:1502

http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHAMS:2019:1502

Court of Appeal of Amsterdam, 30 April 2019, ECLI:NL:GHAMS:2019:1502

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[NL] Media authority to work more closely with Data protection authority

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On April 23rd, 2019, the Commissariaat voor de Media (the Dutch Media Authority) and the Autoriteit Persoonsgegevens (the Dutch Data Protection Authority) announced that they are intensifying the level of their cooperation with each other and that they have accordingly agreed on a cooperation protocol. Their collaborative efforts will focus on supervision and enforcement in respect of media institutions. The aim of the protocol is to set out the relationship between the authorities in this context, and to improve transparency.

The general principles of the cooperation are set out in chapter two of the protocol. Article 3 provides that the authorities will endeavour to support and strengthen each other as much as possible by seeking cooperation in situations where this could enhance the effectiveness of enforcement and supervision measures undertaken by one or both organisation(s). To reach this goal, the protocol provides that the authorities shall meet regularly, and that the authorities shall both appoint contact persons.

Chapter 3 of the protocol addresses the exchange of information between the authorities. It provides in article 6 that the authorities shall inform each other of matters that may be relevant to the performance of the other party's statutory duties. In cases where both authorities can take enforcement action against a particular conduct, and/or cases where joint action is deemed desirable, the respective authorities should contact each other. The confidentiality of the information exchanged between the authorities is addressed in article 7, while article 8 further details the modes of information exchange between the authorities.

To further implement the cooperation protocol, the fourth chapter opens the possibility for the authorities to conclude additional working arrangements. This chapter also indicates the fields in which such cooperation could take place, namely: the governance of public service media, profiling/filters/algorithms; unwanted advertising; the Internet; and broadcasters' websites.

The protocol is effective as of 24 April 2019.

Samenwerkingsprotocol Commissariaat voor de Media en Autoriteit Persoonsgegevens, 23 April 2019, Staatscourant nr. 22141

https://zoek.officielebekendmakingen.nl/stcrt-2019-22141.html

Cooperation protocol Dutch Media Authority and Dutch Data Protection Authority, 23 April 2019, Government Gazette no. 22141

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RUSSIAN FEDERATION

[RU] Supreme Court on Copyright

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Following its plenary meeting on 11 April 2019, the Supreme Court of the Russian Federation issued a Resolution “On the Judicial Practice Related to Part Four of the Civil Code of the Russian Federation”. Part Four of the Civil Code was adopted in 2006 and relates to the regulation of different aspects of intellectual property (see IRIS 2007-1/31).

The resolution is extensive; it has 182 paragraphs on the procedural, general and specific provisions of Part Four, such as the protection of the results of intellectual activity, the use of exclusive rights, copyright, and neighbouring rights. In particular, the court’s attention was drawn to the fact that unless the opposite is proven, all results of intellectual activity are produced in the course of creative work. In itself, the lack of novelty, uniqueness and/or originality of the result of intellectual activity cannot indicate that it was not made through creative work and is, therefore, not subject to copyright. At the same time, results achieved by technical means in the absence of the creative nature of human activity (for example, an automatic video surveillance camera which takes photographs or carries out video filming in order to fix administrative offences) are not subject to copyright (paragraph 80).

The resolution clarifies issues of liability for online informational intermediaries. It generally notes that unless the circumstances of a court case, such as information reported on the site itself, say otherwise, the site administrator is presumed to be the site owner. It was clarified that the site owner is free to determine the ways in which the site is to be used. The burden of proof that the material which represents the results of intellectual activity or means of individualization was placed therein by third parties and not the site owner, thus making the latter a mere intermediary, lies on the site owner. In the absence of such evidence, it is presumed that the site owner is the person who has directly used the relevant results of intellectual activity or means of individualization (paragraph 78).

If the site owner makes changes to the material containing the results of intellectual activity or means of individualization which has been posted by third parties, the court decision on whether the site owner remains an intermediary depends on how active s/he was in editing the posted material and/or whether s/he received income directly from the unlawful placement of such material. Substantial processing of the material and/or the receipt of income by the site owner may indicate that s/he is not an intermediary, but a person that directly uses the relevant intellectual property or means of individualization (paragraph 78).

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The resolution explains that the results of intellectual activity and the means of individualization protected in Part Four of the Civil Code do not include, in particular, domain names, the names of non-profit organisations, nor the titles of the media outlets. Rights to these are subject to protection on the basis of the general provisions of the Civil Code on the means of protection of civil rights (paragraph 33).

It provides explanations on various aspects of the protection of fictional characters (paragraph 82). It suggests that from the copyright perspective, the Internet and other online media are not public spaces (paragraph 100). It explains that “works for hire” are created only if their creation is assigned by the employer and if the job description of the author includes making such types of works. The burden of proof lies with the employer, and the use of the employer’s materials in the process of creation may not serve as proof that the works are for hire (paragraph 104).

The explanations of the law provided by the Supreme Court in its resolutions serve as an interpretative guidance for the judges who tend to quote them in the arguments of their decisions. These explanations are, however, not binding in their nature, as the judges are independent and submit only to the Constitution and federal law (see IRIS Extra 2017-1).

О применении части четвертой Гражданского кодекса Российской Федерации

https://rg.ru/2019/05/06/postanovlenie-dok.html

Resolution of the Plenary Meeting of the Supreme Court of the Russian Federation of 23 April 2019 N 10 “On the Judicial Practice Related to Part Four of the Civil Code of the Russian Federation”

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