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EDITORIAL

Latest State of Signatures and Ratifications of relevant International Treaties; Upcoming Policy Developments

As we do every year around this time, we publish in this issue an overview of the latest state of signatures and ratifications of those international treaties that are relevant to the audio-visual sector.

When this issue closed, there had been no new developments as yet, in regard to the attempts by Commissioner, Mr Mario Monti, to convince the European Commission to propose a directive on the harmonisation of national media ownership rules.

During April, the Dutch Presidency of the European Union took up the idea expressed by Europe's Ministers that are responsible for culture and media policies, to see if it would be possible to formulate a specific provision on public radio and television broadcasting. The reason behind this being the complaints by a number of private broadcasters arguing that national aid mechanisms for public broadcasters should be regarded as State aid and should therefore come under the relevant provisions of the EC Treaty. The Commission is currently working on a text which would enable Member States to decide upon the method of financing public service broadcasting. The text is due to be proposed during the Amsterdam summit in June.

As usual, IRIS will monitor all these developments and inform its subscribers on new developments as they happen.

Ad van Loon
IRIS Co-ordinator

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The global Information Society

European Commission: Publication of an Action Plan on Satellite communications in the Information Society

In a Communication dated 5 March 1997, the European Commission announces an Action Plan for the completion of the Internal Market, the reinforcement of the European position at an international level and the reinforcement of EU Research & Development support and Applications Development, in regard to satellite communications.

Its actions are aimed at reaching a fully competitive satellite communications marketplace. To achieve this result, the Commission, *inter alia*, requests the industry to identify regulatory barriers, allowing the Commission to formulate regulatory measures needed in the satellite communications sector, as well as report on the effectiveness of the measures taken to date.

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, 'EU Action Plan: Satellite communications in the Information Society', 5 March 1997, COM(97) 91 final. Available in English, French and German under URL <http://www.ispo.cec.be/news.html> (16 April 1997), or via the Document Delivery Service of the Observatory.

(Ad van Loon,
European Audiovisual Observatory)

European Commission: Communication on Electronic Commerce

The European Commission has adopted a Communication containing a new set of proposals relating to electronic commerce. The document, entitled "A European Initiative on Electronic Commerce", aims to provide a stable and coherent framework for future Community action in the field of electronic transactions.

The Communication focuses on the electronic processing of data, including sound and video, and covers both services and goods. Moreover, both indirect and direct electronic commerce (*i.e.*, respectively the on-line ordering and delivery of intangible goods and services, and the electronic ordering of tangible goods) are covered by the Commission's document.

The scope of electronic commerce, on the basis of the Communication, covers applications ranging from broadcast to catalogue sales, CD-ROM and banking operations.

Four key areas have been identified where, according to the Commission, action must be taken, by the year 2000. These actions would include:

(i) The realisation of an affordable and predictable access to infrastructures, technologies and services used for electronic commerce. At the same time, assurance of interoperability.

(ii) The attainment of a predictable and confidence-inspiring legal institutional framework which should be in full coherence with the goals of the Internal Market. Since Member States respond in different ways to the challenges represented by electronic commerce, this risks having an inhibitory effect on the development of electronic commerce in Europe, and is therefore a reason for the Commission to act. A Directive on Transparency Mechanisms was proposed in July 1996, in order to reduce the dangers connected to regulatory inconsistencies between Member States (for details, see IRIS 1996-8:3 (September Issue)).

(iii) The creation of a favourable business environment, where public administrations are expected to play a substantial role through the implementation of relevant technologies and through the promotion of relevant skills. Confidence-building is the main objective here: consumers and businesses should be able to rely on the reliability of electronic transactions.

(iv) The realisation of a wider infrastructure at the global level, by achieving global consensus. Consequently, the document of the Commission, focuses on the requirement that any kind of future action in this field should be compatible with the commitments made under the WTO negotiations.

European Commission, 'A European Initiative in Electronic Commerce', Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, 16 April 1997, COM(97)157. Available in English, French and German, in both PDF and Word 6 for Windows format, under <http://www.cordis.lu/esprit/src/ecomcom.htm>, or via the Document Delivery Service of the Observatory.

(Marina Benassi,
Institute for Information Law
of the University of Amsterdam)



AUSTRIA: Police pounce on Internet service provider

At the end of March 1997, the Austrian Economic Crimes Squad seized all the hardware and software belonging to an Internet service provider. Four hundred firms, connected to this server, were hit by the seizure.

A court had ordered the search because there was reason to suspect that material containing child pornography had been disseminated by the server. The server itself is not under suspicion. The seizure was ordered solely for the purpose of collecting evidence.

Proceedings against persons unknown for the dissemination of child pornography are at present pending in the Vienna Regional Court. The police hope that the seizure will indicate who is responsible for supplying, i.e. inserting the unlawful picture material.

The search and seizure have sparked public discussion concerning the extent of a service provider's responsibility for the content of material carried on the web. The authorities concerned take the view that the Internet in Austria is subject to those sections of the law which prohibit the dissemination of pornography. This means that a service operator who is aware of illegal material, knowingly accepts it and so puts it on offer is guilty of a criminal offence.

The newly-established Austrian Association of Internet Access Providers (*Verband der Internet-Provider* - ISPA) is against making network operators liable, arguing that they cannot reasonably be expected to monitor all the material they carry - and indeed that its sheer volume makes this impossible. It considers that responsibility for content and presentation necessarily lies with the author of the material. It condemns the dissemination of illegal material on the Internet and has promised to co-operate with the investigating authorities, as and when necessary.

Representatives of the Austrian Internet Access Providers are considering bringing state liability proceedings against Austria because of the seizure.

Against the background of these discussions, amendment of the Telecommunications Act to put Internet service providers on the same legal footing as telephone service operators is being considered. This would make them legally responsible for unlawful content and oblige them to remove it within a specified time, on being notified of its existence by the authorities.

In protest at the seizure, more than 90% of Austrian Internet servers staged a strike, lasting several hours, which paralysed the country's Internet connections.

(Wolfgang Cloß -
Institut für Europäisches Medienrecht - EMR)

European Union

European Commission:

Decision concerning State aid by France to an audio-visual production company

On 10 April 1997, the Official Journal of the EC published a Decision by the European Commission of 2 October 1996, concerning aid given by France between 1993 and 1996 to the audio-visual production company *Société française de Production* (SFP). SFP was established in 1974, as a result of the splitting up of France's national radio and television broadcasting company, ORTF. The Commission, after having assessed the State aid in the overall context of the development of the audio-visual market in France, declared the aid illegal and incompatible with the common market and instructed the French government to recover the amount of FF1,110 million from SFP, together with interest covering the period from the date when the illegal aid was granted to the date of repayment.

Competitors of SFP had claimed to suffer from low prices charged by SFP as a result of the aid and lodged a complaint with the Commission on 7 April 1994. The Commission saw no ground for exempting the aid under Article 92 (3) (c) and (d) of the EC Treaty and requested France to present a complete and realistic restructuring plan of SFP, which had not yet been developed until then. An ultimate deadline for this was ultimately set at the end of April 1996. The Commission also instructed France not to supply SFP with any further public financing without the Commission's prior approval. Despite of this, during 1996, a new capital injection was given to SFP.

Commission Decision of 2 October 1996 concerning aid granted by the French State to the audiovisual production company *Société française de Production*, OJEC 10.4.97, No L 95: 19-24.

(Ad van Loon,
European Audiovisual Observatory)

European Parliament:

Legislative Resolution on Commission's harmonisation of resale right proposal

In IRIS 1997-4: 5 we reported on the latest state of affairs regarding the European Commission's proposal on harmonisation of the various national systems governing the resale right of all authors of original works of art or original manuscripts. Currently, legislation on resale rights is lacking in Austria, Ireland, The Netherlands and the United Kingdom, and is very dispersed in the other EU Member States. We indicated that the European Parliament was about to discuss the matter.

In the meantime, Parliament has done so at first reading in a codecision procedure. On 9 April, it approved the Commission's proposal subject to a number of amendments.

According to Parliament, the artist's resale right is inalienable and cannot be renounced. On the one hand, Parliament rejected the proposal to assign a resale right to authors of original manuscripts, on the other hand, however, Parliament wants the Directive to apply to all original works that are 'intended to be viewed'.

Furthermore, Parliament amended proposed thresholds, tranches and amounts of duties to be perceived, of which the Commission indicated that it cannot accept this.

Legislative Resolution embodying the opinion of the European Parliament of the proposal for an European Parliament and Council Directive on the resale right for the benefit of the author of an original work of art (Codecision procedure: first reading), Minutes of the Sitting of Wednesday, 9 April 1997, Provisional Edition, PE 258.435: 24-33. Available in English, French and German via the Document Delivery Service of the Observatory.

(Ad van Loon,
European Audiovisual Observatory)

National

CASE LAW

ITALY: Two court decisions concerning horizontal application of the 'Television without Frontiers' Directive

With decisions issued respectively on 4 June and 11 October 1996 the Tribunals of Rome and Milan have replied negatively to the request of two different Consumer Associations to impose the broadcasters the respect of the directive. In the first case, the Tribunal of Rome, although considering that the Association had *locus standi* before the Court, decided that the Directive was not directly applicable in the case at hand, because it had no "horizontal effects" (i.e. it could not be enforced against a private entity if not correctly implemented). In the second case the Tribunal of Milan reached the same conclusion, although using the opposite line of reasoning. The Tribunal said that the Directive was directly applicable even in litigation between private parties but that the Consumer Association (*Comitato di difesa dei Consumatori*) and a consumer in *proprio* had no *locus standi* before the civil Courts in order to ask for a summary judgement against broadcasters. According to the judge, the consumers had no "rights" since the Directive only mentions the protection of interests of consumers as one of the aims of the rules of the Directive concerning the use of television advertising. Both the decisions have been appealed. IRIS will keep you informed on the results.

Tribunale di Roma, Cerniglia et al. vs. R.T.I., decision of 4 June 1996;
Tribunale di Milano, Comitato difesa consumatori et al. vs. R.T.I., Order of 11 October 1996.
Both decisions are available in Italian via the Document Delivery Service of the Observatory.

(Roberto Mastroianni,
University of Florence)

FRANCE: *Conseil d'Etat* authorises commercial break during the broadcasting of 'Gone with the wind'

Television gets through a vast quantity of cinematographic films. It waits impatiently for the cinema screen projection period to run out to show them on the television screen. The possibility of commercial breaks then becomes an essential aspect of the televised broadcasting of cinematographic works. The subject is closely governed by regulation - firstly by the Intellectual Property Code, which protects non-pecuniary copyright very closely, and secondly by audio-visual legislation, which distinguishes between the types of television channel. Private, unencrypted channels may insert one commercial break only. Channels for which a charge is made (e.g. *Canal Plus*) and the public channels may not make any such break at all. How does this rule apply to the famous film "Gone with the Wind" broadcast on 14 February 1994 by the public channel France 3? The *Conseil d'Etat* held that the film had been devised originally as a work of fiction comprising two separate parts, corresponding to two periods in time and separated by a break which, when shown in a cinema, takes the form of an interval. Broadcasting advertising material between the two parts of the film on France 3 was therefore authorised.

Decision by the *Conseil d'Etat* of 28 February 1997, in the Case of *SA Télévision Française*. Available in French via the Document Delivery Service of the Observatory.

(Bertrand Delcros,
Légipresse)

FRANCE: Episode of *Les guignols de l'info* on Canal Plus considered tortuous

The programme *Les guignols de l'info* is broadcast each day on *Canal Plus*, and is very popular. The best-known people in France in politics, culture, the economy and sport are represented by puppets. The programme is mainly humorous, often derisive, and sometimes ridicules the characters. How far may ridicule go?

Mr Jacques Calvet is chairman of the company PSA which manufactures *Citroën* cars. He claimed that the products of his trade-mark had been badly treated in these programmes. Contrary to the Court of Appeal in Paris, which held that the content of the programme was purely whimsical, was not inspired by any desire to harm, and could not have thrown discredit on the trade-mark, the Court of Cassation held, in quashing the decision of the Court of Appeal, that the outrageous, provocative and repeated nature of the remarks was tortuous, even if *Canal Plus* had had no intention of harming the company PSA.

Decision by the Court of Cassation (*Cour de Cassation*) of 2 April 1997. Available in French via the Document Delivery Service of the Observatory.

(Bertrand Delcros,
Légipresse)



GERMANY: Criticism of 'Infotainment' on TV - Court defends the press

On 23 August 1996, the Cologne Regional Court of Appeal (*Oberlandesgericht* - OLG) ruled that the fact that a press article on a private television station's news programme contained aggressive and belittling comments on its staff was not enough to justify the assumption that it served - even subjectively - a competitive purpose.

Under the heading, 'Opinion', a German magazine had published an article on the form and content of a private television station's news programme, which it described as a 'daily blood and sperm soap', with reporters as 'waiters, serving up easily digestible info-snacks'.

The television station complained that the article had seriously damaged its community standing, and sought a court injunction against the publishers, to protect its own competitive position and the personal rights of its staff. It claimed that the article also served a competitive purpose and so technically violated Section 1 of the Act against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb* - UWG) and that it was, in any case, defamatory criticism and as such no longer protected by the basic right to free expression guaranteed by Article 5 of the Basic Law (*Grundgesetz*).

The Regional Court found for the applicant and issued an interim injunction under Sections 823 (1) and 1004 of the German Civil Code (*Bürgerliches Gesetzbuch* - BGB). Ordered to desist, the publishers appealed successfully, and the interim injunction was lifted by the Regional Court of Appeal.

Explaining its decision, the Regional Court of Appeal stated that no claim could be based on competition law, since the defendant had not acted for competitive purposes. It was certainly true that the article complained of could, objectively speaking, affect the competition between the plaintiff and its competitors, but there had been no subjective action within the meaning of Sections 1 and 14 of the Act on Unfair Competition. Since the defendant was a publication covered by the general privileges of the press, the mere fact that the disputed article could objectively serve a competitive purpose, and that the author knew this, was no proof that this had been the actual intention. Publication of an article could, on the contrary, be motivated by the special concern of the press to inform the public on matters of general interest or help to shape public opinion. The subjective intention would have to be established with specific reference to the particular circumstances in which the article had been written. In the present case, it should not be forgotten that the article had clearly set out to attack a particular way of presenting the news, and indeed the criteria used to select the news in a way which might sacrifice items of world-wide importance to others chosen mainly for their 'entertainment value' and presented in a way which violated the journalist's duty of discretion and impartiality and pandered to the public's taste for the sensational. To this extent, the article formed part of the public debate on 'infotainment', which set out to present news items of an often violent and brutal nature as entertainingly as possible - and was thus clearly compatible with one of the specific functions of the press. This contradicted the assumption that the defendant was also motivated, to any appreciable degree, by competitive considerations.

The Regional Court of Appeal agreed that the plaintiff's personal rights had been injured, but held that its application for an injunction on this score was bound to fail, since the defendant could argue that the article in question was covered by a right to free expression, which must in this instance take precedence. It had, in other words, a valid defence.

Cologne Regional Court of Appeal (*Oberlandesgericht* - OLG), Judgement of 23 August 1996, -6 U 98/96-. Available in German from the Observatory's Document Delivery Service.

(Valentina Becker,
Institut für Europäisches Medienrecht - EMR)

UK: Failure to receive a good TV signal does not necessarily constitute actionable nuisance

The House of Lords has ruled, in the case of *Hunter and Others v Canary Wharf Ltd & Hunter and Others v London Docklands Development*, that 'A landowner was, generally, entitled to build on his land as he wished and, accordingly, would not be liable in nuisance because a large building [in this case Canary Wharf] he had erected had interfered with television reception.' An important point here was the fact that the action was brought by persons not having any proprietary interest in the land. The building caused interference in signals transmitted from the Crystal Palace transmitter (although a relay transmitter had subsequently been built).

The Court accepted that there were appropriate circumstances in which the transmission might be protected, as in the Canadian case of *Nor-Video Services Ltd v Ontario Hydro* ((1978) 84 DLR (3d) 221, 231). Here the question was: did the interference emanate from the defendant's land? 'The mere fact that a building on the defendant's land got in the way and so prevented something from reaching the plaintiff's land was, generally speaking, not enough.'

Hunter and Others v Canary Wharf Ltd and Hunter and Others v London Docklands Development Corporation, The Times Law Reports, 25 April 1977. Available via <http://www.the-times.co.uk/> under <http://www.the-times.co.uk/news/pages/resources/ptimes1.n.html?1777515>.

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

Copyright

(Updatet until 15 March 1997)

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

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

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

Satellite and others

(Updated until 15 March 1997)

	ESA/ASE Convention for the establishment of a European Space Agency (30 May 1975)	EUTELSAT Convention establishing the European Telecommunications Satellite Organisation "EUTELSAT" (15 July 1982)		INTELSAT Agreement relating to the International Telecommunications Satellite Organisation "INTELSAT" (20 August 1971)	WIPO-UNESCO Convention relating to the distribution of programme-carrying signals transmitted by satellite (21 May 1974)	WIPO Treaty on the international registration of audiovisual works (20 April 1989)	
	Date of ratification	Signature	Ratification / Accession	Entry into force	Date on which State became Party to the Convention	Signature	Ratification / Accession
Member States of Council of Europe							
Albania			18/02/1993 : A				
Andorra			02/12/1994 : A				
Austria	30/12/1986	11/05/1983	30/04/1985	12/02/1973	06/08/1982	20/04/1989	27/02/1991 : R
Belgium	03/10/1978	26/07/1983	03/07/1985	12/02/1973			
Bulgaria			21/05/1996 : A	15/05/1996			
Croatia			03/12/1992 : A	14/12/1992	08/10/1991		
Cyprus		28/09/1982	17/07/1985	01/03/1974			
Czech Republic			15/12/1993 : A	01/01/1993			01/01/1993 : R
Denmark	15/09/1977	28/09/1982	17/07/1984	12/02/1973			
Estonia							
Finland	01/01/1995	28/09/1982	31/01/1985	12/02/1973			
France	30/10/1980	28/09/1982	12/01/1984	12/02/1973		20/04/1989	27/02/1991 : R
Germany	26/07/1977	19/10/1983	03/12/1984	02/07/1973	25/08/1979		
Greece		14/05/1984	26/08/1987	12/02/1973	22/10/1991	29/12/1989	
Hungary			21/10/1993 : A	26/01/1994		20/04/1989	
Iceland		27/08/1985	12/06/1987	07/02/1975			
Ireland	10/12/1980	03/06/1983	20/03/1985	12/02/1973			
Italy	20/02/1978	18/01/1983	03/07/1985	04/06/1973	07/07/1981		
Latvia			16/09/1994 : A				
Liechtenstein		15/12/1983	04/02/1987	12/02/1973			
Lithuania			13/05/1992 : A				
Luxembourg		28/09/1982	27/08/1987	12/02/1973			
TFyRoMacedonia					25/08/1979		
Malta		30/05/1985	05/02/1987	20/01/1995			
Moldova			19/05/1994 : A				
Netherlands	06/02/1979	13/04/1983	29/04/1985	23/05/1973			
Norway	30/12/1986	10/05/1983	24/02/1984	12/02/1973			
Poland			20/12/1991 : A	15/12/1993		29/12/1989	
Portugal		28/09/1982	17/12/1985	12/02/1973	11/03/1996		
Romania			29/10/1990 : A	07/05/1990			
Russia			04/07/1994 : A	18/07/1991	20/01/1989		
San Marino		28/09/1982	07/03/1985				
Slovakia			09/06/1992 : A				01/01/1993 : R
Slovenia					25/06/1991		
Spain	07/02/1979	25/11/1983	31/01/1985	12/02/1973			
Sweden	06/04/1976	28/09/1982	10/01/1984	12/02/1973			
Switzerland	19/11/1976	18/02/1983	15/07/1985	12/02/1973	24/09/1993		
Turkey		28/09/1982	18/06/1985	26/09/1974			
Ukraine			27/12/1993 : A				
United Kingdom	28/03/1978	28/09/1982	21/02/1985	12/02/1973			
EEC							
Non Member States							
Belarus			13/12/1994 : A				
Bosnia-Herzegovina			22/03/1993 : A	06/03/1996	06/03/1992		
Holy See		28/09/1982	20/03/1985	12/02/1973			
Israel				12/02/1973			
Monaco		28/09/1982	23/05/1984	12/02/1973			
Morocco				12/02/1973			
Tunisia				12/02/1973			
Other States***							
South Africa				12/02/1973			
Algeria				12/02/1973			
Argentina				12/02/1973		29/04/1992	29/07/1992 : A
Australia				12/02/1973	26/10/1990		
Brazil				12/02/1973			26/06/1993 : R
Canada				12/02/1973		21/12/1989	
China				16/08/1977			
Egypt				12/02/1973		30/05/1989	
India				12/02/1973		20/04/1989	
Japan				12/02/1973			
Mexico				12/02/1973	25/08/1979	20/04/1989	27/02/1991 : R
New Zealand				12/02/1973			
Thailand				12/02/1973			
USA				12/02/1973		20/04/1989	

Council of Europe

(Updated until 15 May 1997)

	European Agreement concerning programme exchanges by means of television films (15 December 1958)				European Agreement on the protection of television broadcasts (22 June 1960)				Protocol to the European Agreement on the protection of television broadcasts (22 January 1965)				Additional Protocol (14 January 1974)				Additional Protocol (21 March 1983)				Additional Protocol (20 April 1989)				
	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	
Member States of Council of Europe																									
Albania																									
Andorra																									
Austria																									
Belgium	15/12/58	09/03/62	08/04/62		13/09/60	07/02/68	08/03/68	R/D	02/02/65	07/02/68	08/03/68		14/01/74	30/11/74	31/12/74		21/03/83	28/12/84	01/01/85		04/12/89				
Bulgaria																									
Croatia																									
Cyprus	23/09/69	21/01/70	20/02/70		23/09/69	21/01/70	22/02/70		23/09/69	21/01/70	22/02/70		14/01/74	25/04/74	31/12/74		25/06/84	06/12/84	01/01/85						
Czech Rep.																									
Denmark	15/12/58	26/10/61	25/11/61		22/06/60	26/10/61	27/11/61	R	22/01/65	22/01/65	24/03/65		19/09/74	19/09/74	31/12/74		21/02/83	21/03/83	01/01/85		13/07/89	13/07/89		R	
Estonia																									
Finland																									
France	15/12/58	15/12/58	01/07/61		22/06/60	22/06/60	01/07/61		22/01/65	22/01/65	24/03/65		17/06/74	17/06/74	31/12/74		27/02/84	23/03/84	01/01/85		19/12/89	19/12/89			
Germany					11/07/60	08/09/67	09/10/67	R	22/01/65	08/09/67	09/10/67	R	14/01/74	21/11/74	31/12/74		30/09/83	27/12/84	01/01/85	D	05/07/89	28/12/89			
Greece	15/12/58	10/01/62	09/02/62		22/06/60				30/11/65								21/03/83								
Hungary																									
Iceland																									
Ireland	05/03/65	05/03/65	04/04/65		22/06/60																				
Italy	15/12/58				22/06/60																				
Latvia																									
Liechtenstein																									
Lithuania																									
Luxembourg	15/12/58	01/10/63	31/10/63		13/09/60				22/01/65				26/02/74												
TFyRoMacedonia																									
Malta																									
Moldova																									
Netherlands	07/10/64	03/02/67	05/03/67	T	07/10/64			R/D/T																	
Norway	17/11/59	13/02/63	15/03/63		29/06/65	09/07/68	10/08/68	R	29/06/65	09/07/68	10/08/68		19/09/74	19/09/74	31/12/74		11/05/83	11/05/83	01/01/85		28/12/89	28/12/89			
Poland																									
Portugal																									
Romania																									
Russia																									
San Marino																									
Slovakia																									
Slovenia																									
Spain		05/12/73	04/01/74			22/09/71	23/10/71	R		22/09/71	23/10/71		02/08/83	31/12/74		12/11/84	12/11/84	01/01/85							
Sweden	15/12/58	31/05/61	01/07/61	D	03/08/60	31/05/61	01/07/61	R/D	22/01/65	22/01/65	24/03/65		01/04/74	01/04/74	31/12/74		21/03/83	21/03/83	01/01/85		31/08/89	31/10/89			
Switzerland																									
Turkey	15/12/58	27/02/64	28/03/64		22/06/60	19/12/75	20/01/76	R	24/05/74	19/12/75	20/01/76	R	24/05/74	19/12/75	20/01/76	R	25/10/84	13/12/84	01/01/85		20/04/89	24/11/89			
Ukraine																									
United Kingdom	15/12/58	15/12/58	01/07/61		13/07/60	09/03/61	01/07/61	R/D	23/02/65	23/02/65	24/03/65		15/03/74	15/03/74	31/12/74		04/07/83	04/07/83	01/01/85		18/12/89	18/12/89			
EEC																									
Non member States																									
Belarus																									
Bosnia-Herzegovina																									
Holy See																									
Israël		16/01/78	15/02/78																						
Monaco																									
Morocco																									
Tunisia		23/01/69	22/02/69																						

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

Council of Europe

(Updated until 15 May 1997)

	European Agreement for the prevention of broadcasts transmitted from stations outside national territories (22 January 1965)				European Convention of Transfrontier Television (5 May 1989)				European Convention on cinematographic co-production (2 October 1992)				European Convention relating to questions on copyright law and neighbouring rights in the framework of transfrontier broadcasting by satellite (11 May 1994)				
	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	
Member States of Council of Europe																	
Albania																	
Andorra																	
Austria					05/05/89					09/02/94	02/09/94	01/01/95	D				
Belgium	22/01/65	18/09/67	19/10/67														
Bulgaria																	
Croatia																	
Cyprus	08/12/70	01/09/71	02/10/71		03/06/91	10/10/91	01/05/93	D								10/02/95	
Czech Republic										24/02/97	24/02/97	01/06/97	D				
Denmark	22/01/65	22/09/65	19/10/67							02/10/92	02/10/92	01/04/94	D				
Estonia										13/12/96							
Finland					26/11/92	18/08/94	01/12/94	R/D	09/05/95	09/05/95	01/09/95	D					
France	22/01/65	05/03/68	06/04/68		12/02/91	21/10/94	01/02/95	D	19/03/93								
Germany	06/12/65	30/01/70	28/02/70		09/10/91	22/07/94	01/11/94	D	07/05/93	24/03/95	01/07/95	D					
Greece	22/01/65	13/07/79	14/08/79		12/03/90				17/11/95								
Hungary					29/01/90	02/09/96	01/01/97	R/D	24/10/96	24/10/96	01/02/97	D					
Iceland																	
Ireland	09/03/65	22/01/69	23/02/69														
Italy	17/02/65	18/02/83	19/03/83		16/11/89	12/02/92	01/05/93	D	29/10/93	14/04/97	01/06/97	D					
Latvia									27/09/93	27/09/93	01/04/94	D					
Liechtenstein		13/01/77	14/02/77		05/05/89												
Lithuania					20/02/96												
Luxembourg	22/01/65				05/05/89				02/10/92	21/06/96	01/10/96	D	11/05/94				
TFyRoMacedonia																	
Malta					26/11/91	21/01/93	01/05/93	D									
Moldova																	
Netherlands	13/07/65	26/08/74	27/09/74	T	05/05/89				04/07/94	24/03/95	01/07/95	D/T					
Norway	03/03/65	16/09/71	17/10/71		05/05/89	30/07/93	01/11/93	R/D								11/05/94	
Poland	11/07/94	10/10/94	11/11/94		16/11/89	07/09/90	01/05/93	D									
Portugal		06/08/69	07/09/69		16/11/89				22/07/94	13/12/94	01/04/97	R/D					
Romania					18/03/97												
Russia									30/03/94	30/03/94	01/07/94	D					
San Marino					05/05/89	31/01/90	01/05/93									11/05/94	
Slovakia					11/09/96	20/01/97	01/05/97	R/D	05/10/93	23/01/95	01/05/95	D					
Slovenia					18/07/96												
Spain	12/03/87	10/02/88	11/03/88		05/05/89				02/09/94	07/10/96	01/02/97	D	11/05/94				
Sweden	22/01/65	15/06/66	19/10/67		05/05/89				10/06/93	10/06/93	01/04/94	D					
Switzerland	29/12/72	18/08/76	19/09/76		05/05/89	09/10/91	01/05/93	R/D	05/11/92	05/11/92	01/04/94	D	11/05/94				
Turkey	13/08/69	16/01/75	17/02/75		07/09/92	21/01/94	01/05/93		10/01/97								
Ukraine					14/06/96												
United Kingdom	22/01/65	02/11/67	03/12/67	D/T	05/05/89	09/10/91	01/05/93	D/T	05/11/92	09/12/93	01/04/94	D	02/10/96				
EEC																26/06/96	
Non Member States																	
Belarus																	
Bosnia-Herzegovina																	
Holy See					17/09/92	07/01/93	01/05/93	D	10/02/93								
Israel																	
Monaco																	
Morocco																	
Tunisia																	

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

LEGISLATION

AUSTRIA: New laws on private radio, cable and satellite broadcasting

Private radio

On 20 March 1997, the National Assembly passed an Act amending the Regional Radio Act and leaving the way clear for the licensing of private radio stations to resume. First plans for the licensing of private radio came to nothing in 1995, when the Constitutional Court set aside Section 2 of the Regional Radio Act, regulating service areas and frequencies. At present, only the private stations licensed for Salzburg and Steiermark may broadcast.

The amending Act accordingly set out to adjust the licensing plan, determining the number of regional and local stations to be licensed and the service areas covered. Under the new Act, eight regional radio stations will initially be licensed, each serving the greater part of a region. There will be two in Vienna, and one each in Burgenland, Carinthia, Lower Austria, Upper Austria, Tirol and Vorarlberg. The licences already granted for Salzburg and Steiermark have been extended to 15 August 2001. The 'basic' areas and frequencies specified in the appendix to the Act are available for the new regional services, but these may, on certain conditions, use additional frequencies as well.

Licensing arrangements for local radio services are far more liberal, and the Act sets no limit on the number of licences. The 45 'basic' areas and frequencies specified in the appendix to the Act are initially available for local services, but licence-seekers may also apply for additional frequencies. This allows applicants to determine their own licence areas. The Act defines the purpose of local broadcasting licences as follows: 'to permit radio broadcasting in limited areas, either within regions or within frontier zones taking in parts of two or more regions, the aim being to serve a community or a maximum of 150,000 people living in a unified area, with the area served possessing in each case a certain unity in cultural, economic, political, social, ethnic or other terms'.

Licences will be awarded by the newly established Regional Radio and Cable Broadcasting Authority (*Regionalradio- und Kabelrundfunkbehörde*). Under the act, it must decide on applications for the areas/frequencies specified in the text by 31 August 1997. This means that some of the new licensees may even be able to start broadcasting this year. Within two years, the Minister of Communications will draw up a frequency use plan, making it possible to issue more licenses.

Under Section 10, the current restriction on participation by newspaper publishers (dailies and weeklies) continues to apply. They may not, in other words, have holdings in excess of 26% in a radio station (regional or local) in any one region, and holdings in excess of 10% in each of two further regions. Firms connected with newspaper publishers are treated in the same way and are subject to the same restrictions.

Cable and satellite broadcasting

A Cable and Satellite Broadcasting Act was also passed, and will come into force on 1 July 1997. Under the Act, authorisation is no longer required for cable transmission. The Regional Radio and Cable Broadcasting Authority (*Regionalradio- und Kabelrundfunkbehörde*) must simply be given notice a week before transmission starts. Permission to broadcast via satellite may also be sought from the Authority. It is granted (for a period of seven years) if the applicant can show that he respects the programme principles; the economic aspects are not subjected to scrutiny.

Churches and religious communities may also broadcast on cable and satellite - which they are not allowed to do on regional radio. Cable programmes lasting no more than 120 minutes a day may be organised by public law corporations, including local authorities.

Cable operators are against Section 11, which gives local cable programme organisers limited power to oblige them, with the help of the Regional Radio and Cable Broadcasting Authority, to carry their programmes. In fact, if it cannot bring the parties to a friendly settlement, the Authority may order the cable operator to transmit the local programme, provided that this is the only programme of its type he is obliged to carry or relay, that it is mainly devoted to local news, contains at least 120 minutes of own material daily (excluding repeats) and is shown in no other region.

Bundesgesetz über Änderung des Regionalradiogesetz of 20 March 1997, BGBl. I No 41/1997;

Kabel- und Satelliten-Rundfunkgesetz of 20 March 1997, BGBl. I No 42/1997.

The texts are available on the Internet under URL <http://www.medien-recht.com> or via the Observatory's Document Delivery Service.

(Heinz Wittmann,
MEDIEN und RECHT, journal, Vienna)



FRANCE: New legislation on copyright and neighbouring rights

The Act of 27 March 1997 transposes into French legislation Council Directive 93/83/EEC of 27 September 1993 on the co-ordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission and Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights (the 'Duration Directive'). The Act covers firstly the broadcasting by satellite and retransmission by cable. It renders subject to the Intellectual Property Code the broadcasting of a work towards a satellite from France or a State outside the European Union which does not provide a level of copyright protection equivalent to that guaranteed under French law. The text then confers on the societies which collect and distribute royalties the right to authorise the retransmission by cable, simultaneously and in full, throughout France of a work broadcast from an EU Member State.

In Section II the Act brings the provisions of the Intellectual Property Code (*Code de la propriété intellectuelle*) on the duration of copyright and related rights into line with the EC's 'Duration Directive', by increasing it to seventy years following the death of the author from fifty years as stipulated previously in national legislation.

Lastly, the text adopted by Parliament includes 'riders' on a number of copyright provisions which the authorities would like to see adopted. These include details concerning the tasks and functioning of the societies which gather and distribute royalties, the creation in Article 17 of a further exception to the right of reproduction for the benefit of auctioneers, and a scale of fees to be paid by record library operators to artists and producers of phonograms under Article L214-4 of the Intellectual Property Code.

Act No 97-283 of 27 March 1997 incorporating into the Intellectual Property Code Directives No 93/88 of 27 September 1993 and 93/98 of 29 October 1993 of the Council of the European Communities, *Journal officiel de la République française* of 28 March 1997. Available in French via the Document Delivery Service of the Observatory.

(Charlotte Vier,
Légipresse)

SPAIN:

Parliament adopts Digital Television Act Bill on Transmission and Retransmission of Sports Competitions and Events

The draft Digital Television Act (*see IRIS 1997-2:10 and 1997-4:14*) received final approval from the Spanish Parliament on 17 April 1997. The most important amendment made to it requires the two major groups, PRISA (*Canal Satelite Digital*) and *Distribuidora de Televisión Digital* (DTD) to agree on which decoder to use; if they do not reach agreement within two months, the Act will impose the Multicrypt system. The Socialist Party, which voted against approval of the Act, has already expressed its intention to appeal to the Constitutional Court.

The Bill to regulate the transmission and retransmission of sport competitions and events is currently being discussed under the urgent procedure. The Socialist Party is against discussing it, while the *Izquierda Unida* (united left) party holds that the requirement to broadcast unencrypted should apply to other fields as well as sport.

Despite the continuing rivalry between the two groups, recent press reports would suggest that the companies are at present holding secret negotiations on the possibility of taking joint action after all, with discussions involving the participation of PRISA (*Canal Satelite Digital*) in the joint group.

LEY 17/1997, de 3 de mayo, por la que se incorpora al Derecho español la Directiva 95/47/CE, de 24 de octubre, del Parlamento Europeo y del Consejo, sobre al uso de normas para la transmisión de señales de televisión y se aprueban medidas adicionales para la liberalización del sector, BOE núm. 108: 14153-14156. Available in Spanish via the Document Delivery Service of the Observatory.

(Alberto Pérez Gomez,
Department of Public Law,
University of Alcalá de Henares)

SPAIN: Telecommunications - New Supervision and Arbitration Body

The Spanish Telecommunications Supervisory and Arbitration Authority, the *Comisión del Mercado de las Telecomunicaciones* (CMT) was established by Royal Decree No. 6/96 in June 1996. It is comparable to America's FCC and Britain's OFTEL, and is a public law corporation. Its tasks range from safeguarding free competition in the telecommunications field, through regulating prices and network access, to the arbitration of disputes. But final decisions in the field it covers lie with the Spanish Government, which retains control in such important areas as the fixing of tariffs and conditions for combining and accessing networks until 1 December 1998. The CMT began operating on 3 February 1997. As the telecommunications authority, it also has power to decide on questions of interconnection. In this area, it advises the Spanish government, to which it is also, however, ultimately answerable. Its members are governed by the regulations applying to the public service. One special feature is the fact that CMT officials may not, for two years after leaving, accept employment elsewhere in the same sector, the aim being to ensure from the outset that no improper influence is exerted. The corresponding time limit in other areas of the public service is only six months.

The CMT will have a seven-member Council, whose duties are laid down in Implementing Decree No. 1994/1996.

Real-Decreto-Ley No 6/1996 on liberalisation of the telecommunications sector and Real Decreto No 1994/1996, implementing the regulations/statute of the Telecommunications Market Commission (see IRIS 1996 -10: 15). Available in Spanish from the Observatory's Document Delivery Service.

(Valentina Becker,
Institut für Europäisches Medienrecht - EMR)



THE NETHERLANDS: Amendments to Bill concerning the auction of radio broadcasting frequencies

The Dutch government announced its intention to delay the auctioning of broadcasting frequencies. The Dutch Lower House (*Tweede Kamer*) recently adopted several amendments to the Dutch Media Act as well as to the Telecommunications Act. During the legislative process, Parliament amended the Government's proposal, significantly. The amendment stipulates that the intended auction of broadcasting frequencies cannot take place until a full inventory of the available spectrum bandwidth for broadcasting purposes has been completed. This research is expected to be completed in the beginning of 1999. In the meantime, the available bandwidth which is now unused, will be assigned on a temporary basis. A decision on this assignment is due shortly. IRIS will keep you informed.

Wijziging van de bepalingen van de Mediawet, de Wet op de Telecommunicatievoorzieningen en de Radio-Omroep-Zender Wet 1935 in verband met de liberalisering van de mediawetgeving. Tweede Kamer der Staten Generaal, No 24 808 / 33. Available in Dutch via the Document Delivery Service of the Observatory.

(Maartje Verberne,
Institute for Information Law
of the University of Amsterdam)

THE NETHERLANDS: Full privatisation of NOB

The former production company of the public broadcasting sector in the Netherlands (NOB, *Nederlands Omroepproductiebedrijf NV*) will become a fully privatised company. Originally the NOB was an integrated part of the Dutch public broadcasting system, but it became independent when the Media Act entered into force in 1987. However, the Dutch Government became the sole shareholder, anticipating a full privatisation. To sell the Government's share, requires amendment of the Media Act. A proposal to do so, was sent to Parliament recently. The Government will look into every possibility to dispose of its participation - including an Initial Public Offering (IPO) - but is primarily concerned about the possible effects on the continuity of the company, the employment and its impact on the public broadcasting sector, which is one of its most important clients. In order to protect the interests of the broadcasters broadcasting in the public broadcasting system, the obligation for the NOB to provide the essential technical facilities for the broadcasting of their programmes, will be maintained in the amended Media Act. For this, The NOB will receive a financial compensation based on the market value of the services delivered (f 39 mln in 1995). The revenues of the sale will be used to reduce the national debt. The broadcasters claim that they were promised in the past that the money would be used to support the public broadcasting system. Their opinion is supported by the *Raad van State* (Council of State), which advised the Government on the proposal. However, the Government did not share this opinion.

Wijziging van bepalingen van de mediawet in verband met de privatisering van het Nederlands Omroepproductie Bedrijf NV, TK 1996-1997, 25.312, Nos 1-2. Available in Dutch via the Document Delivery Service of the Observatory.

(Nico van Eijk,
Institute for Information Law
of the University of Amsterdam)

LAW RELATED POLICY DEVELOPMENTS

FEDERATION OF BOSNIA AND HERZEGOVINA: Publication of two draft treaties relating to broadcasting

Upon the request of the European Commission, the European Institute for the Media in Düsseldorf (Germany) has been drafting two treaties on broadcasting for the Federation of Bosnia and Herzegovina, one for the public and another one for the private sector. The Commission's request was made under its 1996 contract with the European Institute for the Media for monitoring media coverage of elections and providing assistance for the establishment of independent media and the fostering of professional journalism.

For the project, assistance was commissioned from a group of experts headed by Mr Werner Rumphorst, the Head of the European Broadcasting Union's Legal Affairs' Department.

Draft Inter-Cantonal Treaty of the Federation of Bosnia and Herzegovina on Public Service Broadcasting Law;
Draft Inter-Cantonal Treaty of the Federation of Bosnia and Herzegovina on Commercial Broadcasting Law.
Available in English from the European Institute for the Media, Kaistraße 13, D-40221 Düsseldorf, Tel: +49 211 901040, Fax: 00 49 211 9010456.

(Ad van Loon,
European Audiovisual Observatory)

HUNGARY: Law on performing rights societies changed

Hungary's copyright law, which is based on the Copyright Act No. III of 26 April 1969 - last amended by Chapter II of Act No. VII, modifying several regulations on protection of industrial property and copyright of 8 February 1994 - was again amended on 19 September 1996.

The last change in the copyright law principally increased the protection period to 70 years and reorganised the neighbouring rights of performing artists, sound recording manufacturers and radio and television companies, and a government decree has now amended the law on performing rights societies.

The Hungarian system for collective protection of copyright and neighbouring rights has so far been operated by a public law body, the Hungarian Copyright Protection Bureau (ARTISJUS). The country is now following most of Western Europe in opting for performing rights societies which operate under private law, must be authorised or registered and are subject to supervision by a public authority or ministry.

The Government Decree contains detailed regulations on compulsory registration and the conditions applying to it. In every performing right area where registration is compulsory, only one performing rights society may be registered, and the legal form in which it operates must be that of a civil law grouping or association. The successful applicant is the one which best satisfies the registration requirements, such as experience, facilities, contacts in other countries and formal regulation of income distribution and the conduct of its business. Performing rights societies are supervised by the Ministry of Culture and Education, which has power to regulate the registration procedure in detail. A public foundation for copyright and associated rights is to be established, and this will replace ARTISJUS in due course.

Government Decree No. 146 of 19 September 1996 on the Collective Protection of Copyright and Neighbouring Rights, published in *Magyar Közlöny* No. 79 of 19 September 1996, p. 4944. Available in Hungarian from the Observatory's Document Delivery Service.

(Andrea Schneider,
Institut für Europäisches Medienrecht - EMR)

GERMANY: Agreement between Federal States (*Länder*) on the *Südwestrundfunk*

In Mannheim on 15 April 1997 the Minister Presidents of Rhineland-Palatinate and Baden-Württemberg provisionally agreed on behalf of their *Länder* the 'Agreement between the Federal States on the *Südwestrundfunk* (SWR)'.
This new public-law broadcasting station, which will be available through one broadcaster in each *Land* (Baden-Württemberg and Rhineland-Palatinate), combine the two existing stations *Süddeutscher Rundfunk* (SDR) and *Südwestfunk* (SWF).

The preamble to the Agreement between the *Länder* explains that this rearrangement of broadcasting in south-western Germany is also intended to give the new SWR more weight within the group of public-law stations in Germany (ARD). SWR's programmes are to constitute its contribution to the implementation of a united Europe and the development of close ties with adjacent neighbouring regions in Europe; at the same time the creation of two broadcasters in the *Länder* means that they will have to take into account demand for programmes of specific interest to the *Land* or the region. SWR's income from broadcasting licence fees and the number of its employees make it the second largest station in the ARD after *Westdeutscher Rundfunk* (WDR); it will have offices in Baden-Baden, Mainz and Stuttgart, while its management and administration will be located in Stuttgart. The merger of the two stations, which after agreement by the *Länder*'s parliaments should take effect on 1 January 1998, resolves the consequences of the different post-war occupation zones, as the territorial coverage of SWF and SDR corresponds not to the later borders between the *Länder*, but to the French and American occupation areas. The duplicate and multiple coverage this produced in some areas should now end, with the associated expectation of better overall provision for the population in both *Länder*. In addition, the *Länder* are expecting to make big savings in the long term through this dismantling of duplicated structures as a result of the merger.

SWR's statutory broadcasting council will comprise 51 members from Baden-Württemberg and 23 members from Rhineland-Palatinate; the ratio on the administrative board will be 11 to 4 members. Decisions will normally require a simple majority, although for example approval of the statute and the budget will require not only the majority of votes of the statutory members but also at least half the votes of the representatives of each separate *Land* (Section 1, par. 2(2) and Section 18, par. 3(3) in connection with Section 15, par. 3(2), Section 23, par. 4(3) in connection with Section 21, par. 2(2) of the Agreement).

Following the formal conclusion of negotiations between the *Länder*, marked by their provisional agreement, the date for signing the Agreement between the *Länder* was given as 31 May 1997. The provisions of the Agreement concerning the number and distribution of the channels to be provided (two radio stations in each *Land*, a further two joint radio stations and one television channel in each *Land*, with combined cover of up to 70% programme share) are however already under discussion from the constitutional point of view; as a result, the procedure for parliamentary approval in the *Länder* has had to be postponed.

Agreement between Federal States on the *Südwestrundfunk*, provisionally agreed on 15 April 1997 in Mannheim. Available in German from the Document Delivery Service at the Observatory.

(Alexander Scheuer,
Institut für Europäisches Medienrecht - EMR)



UK: ITC publishes Code for Listed Events

The Independent Television Commission (ITC) is required by the Broadcasting Act 1996 (Part IV, Section 104) to draw up a code giving guidance on certain matters relating to the televising of sports, and other events of national interest, which have been listed by the Secretary of State. This code was published at the beginning of April 1997 after consultation with all interested parties.

An event may be listed because it is of 'national' interest within England, Scotland, Wales or Northern Island. This allows events to be shown only in those parts of the UK in which there is likely to be the most viewer interest. It is however important to stress that the Broadcasting Act 1996 does not require or guarantee live coverage of listed events, including coverage on Channel 3, Channel 4 and the BBC. Nor does the Act prohibit exclusive live coverage of listed events on these or other services. However, before it will agree to exclusive coverage, the ITC will need to be convinced that broadcasters have been given a fair and reasonable opportunity to acquire rights.

The current listed events are: FA Cup Final, Scottish FA Cup Final, FIFA World Cup Finals, The Derby, Grand National, Olympic Games, Wimbledon Tennis Championships and England Cricket Test Matches. The Secretary of State may add events to and delete events from the list at any time, but only after consultation with the BBC, the Welsh Authority, the ITC and the holder of the rights for the event in question.

ITC Code on Sports and other Listed Events, April 1997. Independent Television Commission, 33 Foley Street, London W1P 7LB. Tel. + 44 171 306 7743, Fax. + 44 171 306 7738, E-Mail 100731.3515@compuserve.com

(Stefaan Verhulst,
IMPS, School of Law,
University of Glasgow)

UK: New Advertising and Sponsorship Code for Radio

The Radio Authority ('The Authority') licences and regulates the independent radio industry in the UK in accordance with the statutory requirements of the Broadcasting Act 1990 and 1996. The Broadcasting Act 1990 makes it the statutory duty of the Authority to draw up, and periodically review a code which sets standards and practice in advertising and programme sponsorship on independent radios. The Authority has now - a month after the revised ITC Code (see IRIS 1997-4: 11) - published a new version of its Advertising and Sponsorship Code, which takes immediate effect. The changes to the Code mean that:

News-readers will now be able to 'voice' commercials (Section A, Rule 4) - The Authority decided that the previous ban on this was unduly restrictive. However, particular care must still be taken to ensure that a product promoted by the voice of a news-reader does not compromise the impartiality of their programming role.

Clearer rules for alcoholic drinks' advertisements which publicise competitions or sales promotions (Section B, Rule 27 and Appendix 2) - The new rule now prevents only those competitions or promotions that appear to encourage excessive consumption.

Bans on the advertising of firearms and weaponry tightened (Section A, Rule 3 (g)) - The rule now also prohibits the advertising of combat knives and replica guns.

Clearer rules for distinction between programming and advertising (Section C) - The Authority appreciates the commercial worth of radio stations' using the medium to advertise their own activities, and their value to listeners, but believes that they should be sufficiently distinct from impartial editorial and therefore regulated as advertisements.

Clearer rules for sponsor credit content (Section C, Rule 7) - The new rules make it clear that the credits should not include telephone numbers, full addresses, prices or details of special offers. The credits should be brief precise acknowledgements, not advertisements. Presenters are also not allowed to endorse products.

New rule on use of religious music (Section B, Rule 32 and Appendix 7) - To avoid offences, this rule requires sensible caution in the use of religious music such as hymns.

Radio Authority, Advertising and Sponsorship Code. March 1997.

Radio Authority, Holbrook House, 14 Great Queen Street, Holborn, London WC2B 5DG. Tel. + 44 171 430 2724, Fax. +44 171 405 7062

(Stefaan Verhulst,
IMPS, School of Law
University of Glasgow)

AGENDA

Professionals are creating the new information society

Les professionnels créent la nouvelle société de l'information

3-5 June 1997

Organiser:

SPAT, Paris

Venue: IDT 97 - le Salon de

l'information électronique

Information & Registration:

Tel.: +33 1 45573048

Fax: +33 1 45542386

See also under URL

<http://www.idt.fr/idt97>

Die Zukunft der Medien hat schon begonnen - Rechtlicher Rahmen und neue Teledienste im digitalen Zeitalter

6 June 1997

Organiser: Das Institut für Rundfunkrecht an der Universität zu Köln

Venue: Hörsaal C, neues Hörsaalgebäude der Universität zu Köln

Information & Registration:

Tel.: +49 221 9415465,

Fax: +49 221 9415466

Copyright in the Entertainment Industry

6 June 1997

Organiser: Hawksmere plc

Venue: One Whitehall Place, London

Fee: £425 + £74.38 VAT

Documentation only: £99

Information & Registration:

Tracey Anderton

Tel.: +44 171 8248257

Fax: +44 171 7304293

The Media and The Voluntary Sector: Towards the 21st Century

9 June 1997

Organiser: The Media Trust/News International

Venue: Queen Elizabeth II Conference Centre, London

Fee: £110 + £129.25 VAT

Information & Registration:

Tel.: +44 171 6374747 or

+44 171 3232230

Fax: +44 171 6375757

MUSICOM International
(New Strategies for Record Labels;
Music Rights and Content
Acquisition; Digital Distribution
of Music; On-line Retailing; etc.)
9-10 June 1997
Organiser: World Research Group
Venue: The Landmark London,
London
Fee: US\$ 1,095
Information & Registration:
Tel: +1 212 869 7231
Fax: +1 212 869 7311
E-mail: info@worldorg.com
See also under URL
http://worldorg.com

Telecoms@the Internet III
Examining the impact of the Internet
on telecommunications
in order to anticipate the threats
and exploit the opportunities
9-13 June 1997
Organiser: IIR - Telecoms &
Technology
Venue: The Olympia Conference
Centre, London
Fee:
£995 + 17.5% VAT (Two Day
Conference, 9 & 10 June 1997)
£695 + 17.5% VAT (One Day
Briefing, 11 June 1997)
£995 + 17.5% VAT (Two Day
Conference, 12 & 13 June 1997)
Information:
Tel.: +44 171 3708590
Fax: +44 171 6035639
Registration:
Tel.: +44 171 9155055
Fax: +44 171 9155056
See also under URL
http://www.cp.uk/tel-inet/

Implementing and Upgrading
Cable Networks to Optimise
Your Service Offering
12-13 June 1997

Organiser: IIR - Broadcast &
Multimedia Division
Venue: Holiday Inn Paris La Villette,
Paris
Fee: £899 + 17.5% VAT
Information & Registration:
Tel.: +44 171 9155055
Fax: +44 171 9155056
Quote ref. B24536

European TV Sports
New Values in the Digital Era
17-18 June 1997
Organiser: Kagan Seminars
International
Venue: Claridge's Hotel, London
Information:
Tel.: +44 171 3718880
Fax: +44 171 3718715

DIGICON 97
Digital Television Roll-out Across
Europe
One Day Conference
on Electronic Programme Guides
23-24 June 1997
25 June 1997 (Electronic Programme
Guides)
Organiser: IIR Limited - Broadcast
& Multimedia
Venue: Forum Hotel, London/Forte
Posthouse Regents Park, London
(Electronic Programme Guides)
Fee: £899 + 17.5% VAT/£599 +
17.5% VAT (Electronic Programme
Guides)/£ 1,398 + 17.5% VAT
(Both)
Information:
Tel.: +44 171 3795757/
+44 171 3882300 (Electronic
Programme Guides)
Fax: +44 171 3731448/
+44 171 3872806 (Electronic
Programme Guides)
Registration:
Tel.: +44 171 9155056
Fax: +44 171 9155056

Convergence & Consumer
Electronics
Consumer Access to Digital
Services and the Evolution
on the Multi-screen Home
25-27 June 1997
Organiser: IBC UK Conferences Ltd
Venue: The London Marriott Hotel,
London
Fee: £1095 + 17.5% VAT
Documentation only: £299
Information & Registration:
Suzi Morris oder Alison Sells
Tel.: +44 171 4532700 or
+44 171 6374383
Fax: +44 171 6361976 or
+44 171 6313214

Digital Television
Economics, Regulation and Strategy
26-27 June 1997
Organiser: IQPC Ltd, London
Venue: Le Meridien, London
Fee: £995 + 17.5% VAT
Information & Registration:
Tel.: +44 171 4213500
Fax: +44 171 8319249
E-mail: digitaltv@iqpc.co.uk
See also under URL
http://www.iqpc.co.uk

Sports & Television
New Values & Opportunities
The Second European Strategy
Summit on Television Sports Rights
2-3 July 1997
Organiser: IBC UK Conferences Ltd
Venue: Hyatt Carlton Hotel, London
Fee: £899 + 17.5% VAT
Documentation only: £299
Information & Registration:
Liz Burns or Gillian Bentley
Tel.: +44 171 4532700 or
+44 171 6374383
Fax: +44 171 6361976 or
+44 171 6313214

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