

## CONTENTS

<p><b>2</b></p> <ul style="list-style-type: none"> <li>• Editorial IRIS widens its scope</li> </ul> <p><b>THE GLOBAL INFORMATION SOCIETY</b></p> <p><b>3</b></p> <ul style="list-style-type: none"> <li>• Council of Europe: Parliamentary Assembly and ARTE organise seminar on "Electronic Democracy"</li> <li>• European Union: IRIS Project to set up an Information Network</li> <li>• European Union: Questionnaire on the legal protection of encoded services</li> </ul> <p><b>4</b></p> <ul style="list-style-type: none"> <li>• European Union: Regulatory framework governing the new services for the information society - the Commission details its regulatory strategy</li> <li>• Germany: A Multimedia Pilot Project</li> </ul> <p><b>WIPO</b></p> <p><b>5</b></p> <ul style="list-style-type: none"> <li>• December discussions on a possible Protocol to the Berne Convention</li> </ul> <p><b>6</b></p> <ul style="list-style-type: none"> <li>• Discussions on a possible new instrument for the protection of the rights of performers and producers of phonograms</li> </ul> <p><b>EUROPEAN UNION</b></p> <ul style="list-style-type: none"> <li>• Court of Justice: Libel without frontiers</li> </ul>	<p><b>NATIONAL</b></p> <p><b>7</b></p> <ul style="list-style-type: none"> <li>• Germany: Ruling by the Federal Constitutional Court on 22 March 1995 on EEC "Television without Frontiers" Directive</li> </ul> <p><b>8</b></p> <ul style="list-style-type: none"> <li>• Germany: Bill to implement EEC Directive on harmonization of the term of protection of copyright</li> <li>• France: Fine inflicted on broadcaster for infringement of advertising rules used to support the audio-visual industry</li> <li>• The Netherlands: Radio-frequency policy under fire</li> </ul> <p><b>9</b></p> <ul style="list-style-type: none"> <li>• Russian Federation: Privacy protection, libel and defamation incorporated in new Civil Code</li> <li>• United Kingdom: BBC has biggest "share of voice" in British media</li> <li>• United Kingdom: Third Annual Survey of Television Content</li> </ul> <p><b>10</b></p> <ul style="list-style-type: none"> <li>• United Kingdom: BBC Strategy Review</li> <li>• United Kingdom: ITC reviews clock-based watershed policy</li> </ul> <p><b>OUTSIDE EUROPE</b></p> <ul style="list-style-type: none"> <li>• Canada: The Canadian country music channel given preference</li> </ul> <p><b>11</b></p> <ul style="list-style-type: none"> <li>• China: New law on advertising</li> </ul>	<p><b>NEWS</b></p> <ul style="list-style-type: none"> <li>• Council of Europe: State of Signatures and Ratifications of the European Convention on cinematographic co-production/Convention Européenne sur la coproduction cinématographique</li> <li>• Council of Europe: Establishment of a network of national correspondents on media concentrations and pluralism</li> </ul> <p><b>12</b></p> <ul style="list-style-type: none"> <li>• European Audiovisual Observatory: Successful seminar on international co-production contracts</li> <li>• Sweden: National Council for Pluralism in the Media</li> </ul> <p><b>13</b></p> <ul style="list-style-type: none"> <li>• European Union: Proposal for a new legal framework for television services in Europe</li> <li>• Germany: 4th Saarbrücken Media Congress</li> <li>• Germany: Bertelsmann and Canal+ set up a new company</li> <li>• Germany: Federal Cartel Office issues an official warning to pay-TV company</li> </ul> <p><b>14 - 15</b></p> <p>Agenda</p> <p><b>16</b></p> <p>Publications</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



---

EDITORIAL

---

## IRIS widens its scope

As from this issue, IRIS will start reporting on legal developments in major markets and emerging markets outside Europe that may be of relevance to the European audio-visual sector. This has become possible, firstly, due to the fact that two research institutes, one in the USA and one in Canada, have agreed to become correspondents of the European Audiovisual Observatory. Secondly, due to the collaboration between the Observatory and the editor of the Post-Soviet Media Law & Policy Newsletter. And thirdly, the Observatory has entered into negotiations with a major U.S. communications law research centre with a view to come to a partnership agreement, which would make this centre part of the Observatory's information network.

As a first result of the widening of the Observatory's information network you will find, in this issue of IRIS, information on the new Chinese Law on Advertising and how Canada tries to prevent competition for its national broadcasters from abroad by banning the retransmission of the signal of the U.S. broadcasting station Country Music Television.

As it turns out, many relevant legal and law-related policy developments have a direct relation with the emergence of a European information superhighway. For this reason, IRIS grouped together all information relating to this issue under the heading "The Global Information Society".

On behalf of the members of the editorial board I would like to thank all those who contributed to this issue by sending laws, case law and other documents or abstracts. Due to the overwhelming reaction following our call to send us relevant information to report it was not possible to publish in this issue abstracts on all material received. Relevant information that is left will, however, be reported upon in the next issue.

Ad van Loon  
IRIS Co-ordinator

---

Published by the European Audiovisual Observatory • **Executive Director:** Ismo Silvo • **Editorial Board:** Ad van Loon, Legal Advisor, responsible for the legal information area of the European Audiovisual Observatory (Co-ordinator) – Lawrence Early, Head of the Media Section of the Directorate of Human Rights of the Council of Europe – Wolfgang Cloß, Manager of the *Institut für Europäisches Medienrecht (EMR)* in Saarbrücken – Marcel Dellebeke, Institute for Information Law (IViR) of the University of Amsterdam • **Contributors:** Vincenzo Cardarelli, Directorate-General X of the Commission of the European Communities – Jens Cavallin, Ministry of Culture (Sweden) – Emmanuel Crabit, Directorate-General XV/E-5 of the Commission of the European Communities – Pascal Cristallo, Court of Justice of the European Communities – Alfonso de Salas, Media Section of the Directorate of Human Rights of the Council of Europe – David Goldberg, School of Law, University of Glasgow (UK) – Jaap Haecck, Institute for Information Law of the University of Amsterdam (the Netherlands) – Prof. Wolfgang Kleinwächter, *NETCOM-Institut der Medienstadt Leipzig GmbH* (Germany) – Volker Kreuzer, *Institut für Europäisches Medienrecht (EMR)* in Saarbrücken (Germany) – Uwe Lemnitz, *NETCOM-Institut der Medienstadt Leipzig GmbH* (Germany) – Christophe Poirel, Media Section of the Directorate of Human Rights of the Council of Europe – Prof. Monroe E. Price, Editor Post-Soviet Media Law & Policy Newsletter (USA) – Prof. Tony Prosser, School of Law, University of Glasgow (United Kingdom) – Pertti Saloranta, Media Section of the Directorate of Human Rights of the Council of Europe – Andrea Schneider, *Institut für Europäisches Medienrecht (EMR)* in Saarbrücken (Germany) – Jeroen Schokkenbroek, Media Section of the Directorate of Human Rights of the Council of Europe – Marcel Schulze, Editor in Chief of the *Internationale Gesellschaft für Urheberrecht e.V. (INTERGU)* – Prof. Pierre Trudel, *Centre de recherche en droit public* of the University of Montreal (Canada) – Lindsay Youngs, Media Section of the Directorate of Human Rights of the Council of Europe.



---

**Documentation:** Michèle Weissgerber • **Translations:** Michelle Ganter (co-ordination) – Frithjof Berger – Katherina Corsten – Graham Holdup – John Hunter – Claire Pedotti – Stefan Pooth – Mechthild Schreck – Catherine Vacherat • **Subscription Service:** Anne Boyer • **Marketing manager:** Markus Booms • **Contributions, comments and subscriptions to:** IRIS, European Audiovisual Observatory, 76 Allée de la Robertsau, F-67000 STRASBOURG, Ph.: +33 88144400, Fax: +33 88144419, E-mail: 100347,461@CompuServe.COM • **Subscription rates:** 1 calendar year (10 issues, a binder + a special issue): FF 2,000/US\$ 370/ECU 310 in Member States of the Observatory - FF 2,300/US\$ 420/ECU 355 in non-Member States – Subscribers who subscribe during the course of a calendar year will be invoiced according to the remaining number of issues to be published that year. Subscriptions will be automatically renewed for consecutive calendar years unless cancelled before 1 December by written notice sent to the publisher • **Typesetting:** Atelier Point Virgule • **Print:** Finkmatt Impression, La Wantzenau • **Layout:** Thierry Courreau • ISSN 1023-8565 • © 1995, European Audiovisual Observatory, Strasbourg (France).



## The global Information Society

### COUNCIL OF EUROPE: Parliamentary Assembly and ARTE organise seminar on "Electronic Democracy"

On 23 and 24 March 1995, the Committee on Parliamentary and Public Relations of the Parliamentary Assembly of the Council of Europe organised a seminar in Paris on "Electronic Democracy".

The main question that was addressed concerned the possible impact of telecommunication technologies on society and democracy. Fears were expressed in regards to the possibilities offered by new technologies to manipulate public opinion, especially by the use of opinion polls. Furthermore, access to networks was an important item on the agenda as was the protection of personal data. A main issue was also the relationship between forms of direct democracy offered by the interactive possibilities of new technological developments and democracy based on representation.

The impact of new communication technologies on human rights and democratic values is one of the main focal points of the Council of Europe. In IRIS 1995-2: 10 we already reported that the Council of Europe's Steering Committee on the Mass Media (CDMM) had installed a Group of Specialists on this issue.

**Full documentation on the seminar may be obtained in French language from the Observatory.**

### EUROPEAN UNION: IRIS Project to set up an Information Network

A scheme to set up an inter-region information network has been set underway by the Commission of the European Communities. At the beginning a total of six regions in the European Union will work together to promote multimedia projects.

According to Michael Carpentier, the director general of DG XIII, the six pilot regions will play a leading role in overcoming the challenges faced by the information network. This task was the subject of a Memorandum of Understanding signed jointly by all participants in Brussels in November 1994.

The six regions involved are North West England in the UK, Nord Pas de Calais in France, Piedmont in Italy, Valencia in Spain, Central Macedonia in Greece and the free state of Saxony in Germany.

Concrete projects are planned to implement the ten fields of use named in the Bangemann report on the summit meeting in Corfu including telelearning, teleworking, teleadministration, telemedicine and city information access systems. A considerable role is also played by new video services; the video on demand pilot project being carried out in Leipzig (Saxony) by Deutsche Telekom is just one example.

According to the IRIS Project Work Plan the six regions will have until the end of September 1995 to draw up their strategy and action plan. For the time being it has been planned to continue the project over five years. By the end of the year other regions within the European Union Member states should join the venture.

It should be noted that there is no link between this IRIS project and the "IRIS - Legal Observations of the European Audiovisual Observatory".

**Copies of the scripts of the Memorandum of Understanding and the Work Plans and further information concerning the Regional Information Society Unit in Saxony are available through the Observatory.**

*(Prof. Wolfgang Kleinwächter, NETCOM Institut der Medienstadt Leipzig GmbH)*

### EUROPEAN UNION : Questionnaire on the legal protection of encoded services

As already announced in "Towards an information society in Europe : an action plan." (COM (94) 347), the Communication of the Commission to the Council and the European Parliament, the Commission is currently preparing a Green Paper on the protection of encoded services within the internal market.

The Green Paper will be discussing to what extent, within an information society and especially with respect to the unrestricted circulation of goods and services, obstacles caused by different national approaches to the regulation of the legal protection of encoded services might prevent the proper working of the internal market,

The Commission has prepared a questionnaire for the publication of the Green Paper and also to gain as much information as possible on the subject. The Commission would like to have the views of IRIS readers. Contributions should reach the Commission by 15 May 1995.

**Any further information can be obtained from Ms. Fröhlinger, head of the "Media, communication, commercial and unfair competition" unit at Directorate General XV "Internal Market and Financial Services", telephone +32 2 2957712, or Mr. Guerreri, the official in charge of the case, telephone +32 2 2963257, fax +32 2 2957712.**



**EUROPEAN UNION: Regulatory framework governing the new services for the information society: the Commission details its regulatory strategy**

Following the proposal of Mr Bangemann, Mr Monte and Mr Oreja, the Commission of the European Communities has laid down an outline for a regulatory framework for the new interactive services of the information society (TV education, TV buying, TV medicine, video on demand, etc.). The Commission's objective is to ensure that the services that will be transmitted through the information highways will be able to cross national borders without coming up against regulatory problems. The new services, taking into account their respective costs, should be able to reach the various niche markets to be found in all the Member States so that they can achieve a satisfactory return on investment.

The basic legal rights of the internal market, notably the right of establishment (article 52) and the unrestricted circulation of services (article 59, mutual recognition), as well as certain existing directives, already provide initial guarantees and avoid a legal "no man's land". As for future needs, the Commission considers that it would be premature to lay down specific Community regulations as the risks involved in the new services could give rise to fresh Community-wide regulations, the scope of which is not yet known or sufficiently clear. The Commission has therefore decided to launch a number of working parties to deal with the regulatory problems, especially copyright problems within the information society (Green Paper under way), on commercial communication (Green Paper under way), on the legal protection of encoded signals (Green Paper under way), on media ownership (new consultation under way, see IRIS 1995-3: 9). Protection of the individual's right to privacy is also likely to be positively affected by the framework directive that is currently being passed by the Council.

The Commission has also announced that it would be shortly issuing a Communication on the mechanism for transparency which would aim to avoid a situation whereby likely national legislative trends over the next few years would lead to a refragmentation of the unrestricted area. This would involve ensuring all the other Member States and the Commission be fully aware of the legislative projects concerning the information society of any other Member State so as to guarantee that the respective measures be in line with the principles of the internal market. It would also, when necessary, detect and anticipate the future community regulatory needs.

**Commission press release of 22 march 1995, IP/95/287. Contact : Ms Margot Fröhlinger or Mr Emmanuel Crabit, Commission of European Communities, DG XV, tel. +32 2 2959350 or +32 2 2988114, fax: +32 2 2957712.**

**GERMANY: A Multimedia Pilot Project**

During the summer of 1995 in Stuttgart it is planned to undertake a pilot project named "Baden-Württemberg Multimedia". 4000 households within the Stuttgart area will take part in this large scale test organised by the Ministry of Economics. The test area was chosen not only because of the representative population cross-section but also because it possesses one of the best cable network installations.

The test will cover both private and business needs. For private use it is planned to test, amongst others, video on demand, telelearning, teleshopping and also publisher information services. For the business field the project will look primarily at the use of video communication, teleworking and learning and educational programs. In addition, the project should also enable the organisers to make a quick assessment of the use of data banks.

It is also hoped to evaluate users' acceptance level of these new services. As this often depends whether the system is easy to use or not a man/ machine interface task force will be set up to study how the system can be made more user friendly. In two years time it is expected to extend the project to the whole of the Baden-Württemberg region. The aim is to turn Baden-Württemberg into an information region.

Currently, a similar project is also underway in Hamburg. This project, based on an initiative by the Chamber of Commerce, is co-ordinated by DiTV GmbH and Co. KG. The content is oriented towards private users and offers video on demand and teleshopping and also training and further education programs. It is also planned to link up with public sector organisations to provide counselling and other such services. This will also eventually lead to the planned "direct access citizens information system".

**Pilot project "Multimedia in Baden-Württemberg", the Baden-Württemberg Ministry of Economics; DiTV digital interactive television - Pilot project Hamburg: all are available in German through the Observatory. Further reports about pilot projects in Germany will follow.**

*(Volker Kreutzer, Institut für Europäisches Medienrecht - EMR)*



## WIPO

### December discussions on a possible Protocol to the Berne Convention

In IRIS 1995-2: 3, reference was made to the December meeting of the Committee of Experts on a possible Protocol to the Berne Convention.

During this meeting, in the *General discussion* the sudden change of front of the U.S. delegation was remarkable. Had the U.S. during the previous three meetings been opposed to a possible Protocol, now it stated that the intellectual property rights should be re-examined in view of the establishment of a global information structure, "... and that the preparation of a possible Protocol provided a useful opportunity for this re-examination." The delegation also pointed out that the information structure could 'benefit all countries', if only new international understanding was reached for a better protection of authors.

The Committee agreed that the possible Protocol should contain provisions of a declaratory nature on the protection of *computer programs*. Discussions are still open as to the exact wording of the provisions; should the possible Protocol state that computer programs *are* literary works, or that they have to be protected *as such*?

Although the formulation is still uncertain, the Committee agreed that as for *databases*, the possible Protocol should contain a provision "... making it clear that compilations - or "collections" - of data or other material, including databases, which by reason of the selection or arrangement of their contents constitute intellectual creations, were protected by copyright, and that such protection neither extended to the data or material itself nor prejudiced any copyright that might subsist in the contents of the database."

The majority found that the possible protection of *non-original databases* "... should be considered for a possible inclusion in a new international instrument."

In relation to the *right of distribution* the Committee agreed that copies should only be understood as tangible objects. To *digital transmissions* "... the right of communication to the public could be applied together with the right of reproduction and possibly the right of distribution." Another approach, supported by some delegations would be to create a new right of "digital delivery".

General approval was found to the inclusion of a *rental right* in the possible Protocol. Discussions are still open on the question if the rental right provisions should contain an exhaustive list of works to which it applies, or a minimum list, or if it should apply to all categories of works except works of architecture of works of applied art.

With regard to the proposed *right of importation* views differed. The subject is kept on the agenda.

The Committee supported the abolition of *non-voluntary licenses for sound recordings of musical works*. However, some interested parties disagreed. Therefore the subject remains on the agenda.

All delegations agreed on the abolition of *non-voluntary licenses for broadcasting*.

*The duration of protection of photographic works* would have to be normalized, i.e. the same as for other works.

Finally the possible inclusion of provisions in the Protocol on *circumvention of technical devices and right management systems* was discussed. There was a positive approach to this inclusion, although many different questions were left open.

The next session of the Committee will be in September of this year.

Report of the fourth session of the Committee of experts on a possible protocol to the Berne Convention, Geneva, 5-9 December 1994. WIPO document BCP/CE/IV/3. The document is available in English and French at WIPO or in English at the Observatory.

(Jaap Haack, Institute for Information Law, Amsterdam)



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

The Committee of Experts on the protection of the rights of performers and producers of phonograms met from December 12 to 16 last year.

In the *General discussion* the U.S. delegation underlined again the importance of the establishment of the global information structure. Unlike many other delegations the U.S. delegation thought it premature to make decisions on the rights of performers in audiovisual fixations, because of the yet unknown impact of digital dissemination. The diverging opinions led to a less fruitful meeting than the one on the possible Protocol. The Committee agreed on the inclusion of definitions in the possible New instrument. The contents of these definitions are still open to discussion.

Because the issue of *economic rights of performers in their live performances* is strongly related to the discussion on audiovisual fixation, this issue was kept on the agenda.

It was decided to create a general *right of distribution* with a provision on exhaustion (national, regional or global). A *rental right* was broadly supported, although there were discussions on the question for whom this right should be established (both performers and producers of phonograms or just one of these groups). Opinions on the *importation right* were divided. *Public lending* will be excluded from the distribution right.

With regard to *rights related to communication to the public* there was no enthusiasm for the inclusion of exclusive rights. For *on-demand delivery* some delegations would consider an exclusive right, although further studies on the subject were thought necessary, as part of the general study on the impact of digital technology.

Although there was broad support for the inclusion of *moral rights* in a possible New instrument, hesitations were also expressed. Further study on the matter is required. The *right of adaptation* was broadly supported although some delegations were in favour of further detailed analysis of the need for this right.'

The Committee's *next meeting* will be in September of this year, corresponding with the meeting of the Committee of Experts on a possible Protocol to the Berne Convention.

**Report of the third session of the Committee of Experts on a possible Instrument for the protection of the rights of performers and producers of phonograms, Geneva, 12-16 December 1994. WIPO document INR/CE/III/3. The Document is available in English and French at WIPO or in English at the Observatory.**

(Jaap Haec, Institute for Information Law, Amsterdam)

## European Union

### Court of Justice: Libel without frontiers

The Court of Justice of the EC has ruled that the victim of a libel by a newspaper article may bring an action for damages against the publisher either before the court of the country where the publisher of the defamatory publication is established, or before the courts of the State in which the publication was distributed and where the victim claims to have suffered injury to his reputation. The former courts will have jurisdiction to award damages for all the harm caused by the defamation, the latter only in respect of the harm caused in the state in question.

The question to the Court was brought forward by the British House of Lords as a result of the proceedings between Ixora Trading, Chequepoint and Mrs Shevill, and *Presse Alliance*, a company under French law whose registered office is in Paris. On 23 September 1989 *Presse Alliance*, which publishes the newspaper *France-Soir*, published an article about a raid by drug squad officers on one of Chequepoint's branches. The article expressly mentioned the company "Chequepoint" and "a young woman by the name of Fiona Shevill-Avril". The plaintiffs considered the article to be defamatory in that it suggested their involvement in drug-trafficking and money-laundering, and claimed damages for libel in the High Court of England and Wales. *Presse Alliance* argued that the French courts had jurisdiction in this dispute and that no harmful event had occurred in England. The Court ruled that the plaintiff must have the option to bring proceedings also before the court where the damage occurred, i.e. where the publication which injured the victim's reputation, was distributed.

**Court of Justice of the European Communities, 7 March 1995, Case C-68/93, Fiona Shevill/Ixora Trading Inc./Chequepoint SARL/Chequepoint Int. Ltd v Presse Alliance SA. Available in English at the Observatory.**



## National

GERMANY: Ruling by the Federal Constitutional Court on 22 March 1995 on EEC "Television without Frontiers" Directive

With its ruling on 22 March 1995, the second senate of the Federal Constitutional Court (*Bundesverfassungsgericht*) settled the dispute between the German *Länder* (federal states) and the Federation over the EEC Directive on "Television without frontiers" (89/552/EEC).

Eight German federal *Länder* have added their support to a lawsuit brought by the government of the *Land* of Bavaria and which has been pending since 1989.

The proceedings dealt essentially with the question whether, by endorsing the EEC Directive, the Federal government had infringed the jurisdiction concerning broadcasting matters which is exclusively assigned to the federal *Länder* by Art. 30 and Art. 70 of the Basic Law (the Constitution).

The Federal Constitutional Court stated that the decision by the government to endorse the EEC television Directive could not be contested under constitutional law.

However the Federal Constitutional Court reproved *the way* in which the Federation had ensured Federal Germany's participation in drawing up *quota regulations* in the EEC television Directive. It was considered that the Federation may have infringed the rights of the Free State of Bavaria and also those of the federal *Länder* which had added their support to the lawsuit. These rights are set out in Art. 70 paragraph 1 and Art. 24 paragraph 1 of the Basic Law and also constitute one of the basic principles of federation-positive behaviour.

The Federal Constitutional Court stated *inter alia* that:

- broadcasting was also a cultural phenomenon. Since the television Directive also sets a framework for broadcasting the exclusive legislative powers of the individual *Länder* had been affected;
- for as long as the existence and scope of legal authority remains a point of contention between the Federation and the *Länder*, the federal government can deviate from the legal position of the Federal Council because it based its decision *on the established interpretation of the Court of Justice of the European Communities*. On this basis it can be considered that television programme distribution services and the legal authority of the Community to regulate the right of reply, advertising, sponsoring and the protection of minors have been respected in law.
- Concerning the EEC's wish to harmonise services offered (as set out in Art 59 EEC), the federal government was able to rely essentially on *the principle of limited individual authority*. This principle, which underlies the entire Community treaty, should appease the fears of the federal *Länder* since all cross-border remunerated services can now be classified under the group heading of "free movement of services".
- The Council of Europe's Convention on Transfrontier Television cannot replace the Directive because the Council of Europe is not equipped with facilities comparable to those at the Court of Justice of the European Communities for the enforcement of such rules.
- In addition, the federal government has not sufficiently backed up its position, which it developed in conjunction with the federal *Länder*, that the Community would not have the legal authority to decide *quota regulations*. It is the joint opinion of the Federation and the *Länder* that quota regulations set requirements for the composition of programmes and consequently set regulations for the content of broadcasts, essentially in its role in cultural and community matters. As the representative of the interests of the federal *Länder*, the government should have clearly defended this legal position by pursuing the scrapping of quota regulations rather than giving declarations of protocol on the non-bindingness of the quota regulations which is questionable and possibly created a legal precedent which will be difficult to refute in the future.

Ruling by the 2nd Senate of the Federal Constitutional Court (*Bundesverfassungsgericht*) on 22 March 1995, 2 BvG 1/89, p. 57. Available in German from the Observatory. See also the report on the Hearing of 8.11.95 in IRIS 1995-1: 15.

GERMANY: Bill to implement EEC Directive on harmonization of the term of protection of copyright

On 13 March 1995, a draft of a fourth law to amend the Act on authors' rights and rights related to authors' rights (*Urheberrechtsgesetz*) of 9 September 1965 (BGBl. I p. 1273), lastly amended by the Act of 2 September 1994 (BGBl. I p. 227B, 2293), was put before the federal government.

The government's draft is intended to implement Council Directive 93/98/EEC of 29 October 1993 to harmonize national rules on the duration of authors' rights and certain related rights (OJ of 24.11.1993 No L 290: 9). The draft makes provision for a 50 year period of protection of performance rights for sound recording producers, film makers and broadcasters of 50 years (instead of the present 25 year period).

Other recently proposed regulations are closely linked to the provisions of the above-mentioned Directive. According to these regulations copyright cover for photographers who produce so-called one-off photographs should also be increased to 50 years.

Also closely linked to the provisions of the Directive, the draft maintains that the wording of the *Urheberrechtsgesetz* be modified to come into line with the directly applicable ban on discrimination set out in Art. 6 paragraph 1 of the EEC Treaty and Art. 4 of the EEA Agreement (EEA = European Economic Area). These proposed amendments to the text stem from a ruling made by Court of Justice of the European Communities on 20 October 1993, Phil Collins and others in which it was decided that authors' rights and rights related to authors' rights fell within the scope of the EEC Treaty in the meaning of Art. 7 paragraph 1 (now Art 6 paragraph 1 of the EC treaty) and that consequently the general ban on discrimination for reasons of nationality mentioned in this article was applicable to authors' rights and rights related to authors' rights.

According to the draft, nationals (companies) from other EU and EEA Member States should also enjoy the same protection as provided for German nationals (German companies) in the *Urheberrechtsgesetz*.

**Entwurf eines Vierten Gesetzes zur Änderung des *Urheberrechtsgesetzes* (Draft of a Fourth Act to Amend the *Urheberrechtsgesetz*) of 13 March 1995, Drucksache 13/781, Sachgebiet 440. In German language available at the Observatory.**

(Marcel Schulze, Editor in Chief of the *Internationale Gesellschaft für Urheberrecht - INTERGU*)

FRANCE: Fine inflicted on broadcaster for infringement of advertising rules used to support the audio-visual industry

By Decision of 23 February 1995, the French media authority, the *Conseil supérieur de l'audiovisuel* (CSA) has inflicted a sanction upon the broadcaster *Télé Toulouse* (T.L.T.) for not respecting the advertising rules.

In France, terrestrial broadcasters that broadcast their programmes unencrypted are not allowed to broadcast advertising messages stemming from advertisers that are active in the economic sector of distribution. This prohibition is laid down in Article 8 of Decree n° 92-280 of 27 March 1992. Article 9 of this Decree prohibits illegal advertising.

According to the CSA, T.L.T. had infringed these provisions on different occasions in 1992. By sending warnings on 15 September and 10 November 1992, the CSA tried to urge T.L.T. to respect the obligations imposed by law. On 24 December 1992, the CSA again noted a series of infringements. Therefore it decided on 23 February 1995, taking account on the one hand, of the seriousness of the infringement and on the other hand, the revenues gained by T.L.T. from the broadcasting of the illegal advertisements, to inflict a fine of FF 100,000 to transfer to the Treasury's special account for financial support to the cinematographic industry and the audio-visual programme industry.

**Decision No 95-73 of 23 February 1995 inflicting a sanction on the company *Télé Toulouse* (T.L.T.), Journal Officiel de la République française of 22 March 1995: 4488-4489.**

THE NETHERLANDS: Radio-frequency policy under fire

On 22 March 1995 the Dutch administrative court *College van Beroep voor het bedrijfsleven* ('board of appeal for trade and industry') set aside the Ministry of Transport and Public Works's decision to assign other broadcasters than Sky Radio an FM frequency. The court found that the Ministry in determining and assessing the criteria for the assignment of AM and FM frequencies to private commercial radio stations, has overstepped its competence. The consideration whether the programme of a private commercial radio station was an addition to the programming of the existing public and private broadcasters - claimed to be the justifiable desire for "diversity" - was ruled to lack basis in the governing law (the *Wet op de Telecommunicatievoorzieningen* - "Law on telecommunications facilities"). Secondly, the court found that the Ministry's decision showed insufficient consideration for the interests of Sky Radio. The result of this ruling is that the Ministry will have to issue a new ordinance, having regard to the court's ruling. Since all the remaining AM and FM frequencies have already been assigned to other private commercial radio stations. Sky Radio's chances of obtaining an FM frequency should - in spite of the ruling of 22 March - not be overestimated.

**College van Beroep voor het bedrijfsleven, 22 March 1995, No 94/2533/090/195, Sky Radio Ltd. vs. Minister van Verkeer en Waterstaat and others. Available in Dutch at the Observatory.**





#### RUSSIAN FEDERATION: Privacy protection, libel and defamation incorporated in new Civil Code

On 1 January 1995, Part One of the new Russian Civil Code became effective. Article 152 codifies existing practice in regards to the right of plaintiffs to seek nonmaterial damages ("moral damages") for violations of honor and dignity ("defamation"). The Post-Soviet Media Law and Policy Newsletter reports on the basis of statistics published by the Ministry of Justice of the Russian Federation, that the number of civil defamation actions increased by 26% in the first half of 1994, over the year before. Article 150 (1) recognizes the "inviolability of private life", "personal and family privacy" as well as "other personal nonproperty rights and other nonmaterial benefits". This may have implications for media outlets when they are accused of invasion of privacy by the publication of facts on a person's private sphere, since the truth of the statement is not a defense.

Post-Soviet Media Law and Policy Newsletter, Issue 16, 17 March 1995, p. 12, Howard Squadron Program in Law, Media and Society, Benjamin N. Cardozo School of Law, Yeshiva University, 55 Fifth Avenue New York, NY 10003. Available in English through the Observatory.

#### UNITED KINGDOM: BBC has biggest "share of voice" in British media

According to a research report by the British Media Industry Group, the BBC has by far the biggest "share of voice" in the British media. With a 19.7 per cent "share of voice", the BBC has nearly twice the weight of its nearest rival - News International with 10.6 per cent. The organisation with the third largest "share of voice" is the Daily Mail and General Trust (publisher of the Daily Mail and a large number of regional newspapers), followed by The Mirror Group.

The report comes from the British Media Industry Group, which consists of various national newspaper groups (Associated Newspapers, Pearson, Guardian Media Group and The Telegraph) campaigning for more flexible media ownership rules. The concept of "share of voice" is designed to reflect the impact of various media organisations on the population and is measured by share of newspaper circulation (regional and national), television viewing and radio listening.

Under such a measurement, the large margin attributed to the BBC is even more notable, considering the fact that it owns no newspapers. The low score of the ITV companies (Carlton Communications 3.1 per cent, Granada 2.5 per cent) is explained by the federal and fragmented nature of the ITV system.

The report by the British Media Industry Group, published on 21 March of this year, has been submitted to the National Heritage Department which is expected to publish a Green Paper on cross-media ownership later this year. The newspaper groups claim that the rules preventing them from owning more than 20 per cent of commercial broadcasting organisations, are too rigid in times when different media converge.

Report of the British Media Industry Group, tel.: +44 171 7991500. Available in English through the Observatory.

#### UNITED KINGDOM: Third Annual Survey of Television Content

Pursuant to its duty under the Broadcasting Act 1990 (section 153), the Broadcasting Standards Council published its third annual report on television content during 1994. The report, based on studies of violence, sexual activity and bad language, deals with both the proportion and frequency of incidents and the response of viewers. The research is based on sample periods of primetime television.

The *content analysis* covered some 450 hours of satellite and terrestrial television programmes from BBC1, BBC2, ITV, C4, Sky One, the Movie Channel, Sky Movies and Sky Movies Gold over two one week periods.

As regards *bad language*: 46% of terrestrial television programmes included some bad language (some-what of an increase over previous years), the majority being from a religious origin (40%) or were 'mild bad language' (20%). 76% of satellite television programmes contained such language, again the majority of incidents contained 'mild bad language'. The rate of incidence remained steady: one incident every 8 minutes for terrestrial and one incident every 4 minutes on satellite television.

As regards *sexual activity* (two-thirds of the coded scenes being kissing), terrestrial output has changed little over three years; 'less than 1/2% of the broadcast time recorded'. Double that figure, 1%, was noted for satellite broadcast time monitored, up from 0.6% in the 1993 sample period.

As regards *violent incidents*, 3-4% of monitored time included such incidents on terrestrial television. The proportion was similar to previous years and the rate of occurrence had also not increased. On satellite television, incidents were slightly up - from 9% to 10%. The pattern of violent incidents differed in that 'a smaller number of incidents was more widely dispersed through a greater number of programmes'.

The strength and frequency of *audience concern* was derived from an Audience Monitoring Panel of 425 viewers who responded to 19,000 individual programmes. 53% of the monitors noted at least one programme that gave rise to concern in the two-week monitoring period. Most concern was expressed by persons over 55, women and those with children in the viewing household. The incidents which were most likely to be noted as giving concern were violence in 'pre-Watershed' (before 21:00 hours) programmes and bad language and sexual activity in post-21:00 programmes.

"Monitoring Report 111" is available from the Broadcasting Standards Council, 5-8 The Sanctuary, London SW1P 3JS; tel.: +44 171 2330544; fax +44 171 2330397. The Broadcasting Act 1990 Ch. 42 is available from Her Majesty's Stationary Office, London or through the Observatory.

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

#### UNITED KINGDOM: BBC Strategy Review

After 18 months of internal discussion and its largest ever exercise in public consultation, the BBC has produced its strategy review. The review notes the changing nature of the Corporation's audience and the necessity of reflecting more fully the needs of Scotland, Wales, Northern Ireland and the English Regions as well as different age groups and religious and ethnic minorities. The consultation suggested that most of the audience was broadly satisfied but that some groups, especially the young, the less well-off and those furthest from London found the BBC out of touch with ordinary people and 'too serious'. Much output was seen as middle-aged in tone and subject matter.

The review responds to seven challenges: relevance, accessibility, originality and risk-taking, creative partnership with talent, quality, range and mix in programming. More specifically, it proposes to offer more live and specially recorded music, increased quality in popular drama, better and more accessible entertainment and arts programmes, more accessible news presented in a way which is more welcoming to audiences and fuller regional coverage.

**"People and Programmes"**. Available from the BBC Shop, PO Box 1QX, Newcastle Upon Tyne NE99 1QX. Price: £ 8.- plus £ 1.95 p&p.

(Prof. Tony Prosser, School of Law, University of Glasgow)

#### UNITED KINGDOM: ITC reviews clock-based watershed policy

The imminent onset of video-on-demand, pay-per-view and near-video-on-demand services has caused the Independent Television Commission to reconsider its policy as regards the viewing of unsuitable material by children.

The existing approach is spelt out in the Family Viewing Policy within the ITC Programme Code and largely relies on scheduling controls. The review recognises that the newer services are watched as a result of an individual decision to pay to watch. This implemented by technical means, which restrict access to someone properly authorised, and in possession of a billing PIN number.

In consequence, the normal watershed rules (centring on 21:00 hours), will, for an experimental period, and where the ITC is satisfied that adequate measures exist to protect children, be waived for such new services. 'Adult material' will thus be permitted to be available to those who wish to watch it at any time of the day.

**The Programme Code is available from the Independent Television Commission; 33 Foley Street, London W1P 7LB; tel.: +44 171 2553000; fax +44 171 3067738.**

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

## Outside Europe

#### CANADA: The Canadian country music channel given preference

The Canadian Radio and Television Council (CRTC) has removed the American channel *Country Music Television* from the list of channels Canadian cable operators are authorised to distribute. This decision, which dates from 6 June 1994, was the result of a previous decision through which the CRTC granted an operating licence for a specialist English-language music programme, broadcasting country music video-clips to a target audience aged 18 and over. The channel, known as *The Country Network*, is run by Canadians.

The CRTC acted in accordance with its stated policy, which involves granting authorisation to cable distributors to distribute channels by non-Canadian satellite provided that the channels do not compete with a Canadian channel. It therefore regularly reviews the list of channels that cable operators may distribute.

The Council has drawn up a list of criteria to rule on whether or not a channel can be distributed by satellite. Foreign channels have to add to the diversity of the programmes offered to subscribers and not supply a similar service to one already provided by a Canadian broadcaster. The authorisation granted to cable operators to distribute a non-Canadian service can be withdrawn should the foreign service find itself in competition with a Canadian service, either because the foreign service changed its programming or because a Canadian pay-TV or specialist company appeared upon the scene. Every time there is a review of the list, only those services appearing on the new list are authorised.

**CRTC Decision 94-284, Approval of the Country music video-clip service, The Country Network, 6 June 1994. Decision made public 19 January 1995. Revised list of authorised satellite services, appendix A. Available from the Observatory in French or in English.**

( Prof. Pierre Trudel - *Centre de recherche en droit public* of the University of Montreal)



#### CHINA: New law on advertising

On 1 February 1995, a new Law on Advertising entered into force in China. It was adopted by the 10th session of the Eighth National People's Congress Standing Committee on 27 October 1994 and sets aside all other, prior laws and regulations relating to advertising, as far as they are not in line with this new standard.

The objectives of the law are the promotion of a healthy development of the advertising industry, the protection of the legitimate rights and interests of consumers, the maintenance of social and economic order and to provide for an opportunity to demonstrate the positive role that advertising can play in a socialist economy.

One of the main rules is that advertisements must be truthful, lawful and in line with socialist ethics. They must not contain any false information and must not cheat or mislead the consumer. Moreover, those involved in advertising must uphold the principles of fairness, honesty and trustworthiness.

Furthermore, the law contains detailed rules on the contents of advertising messages as well as on the contents of contracts for advertising activities.

Advertising will be supervised at county-level and higher people's governments and industrial and commercial administrative departments.

**Law of the People's Republic of China on Advertising, adopted by the 10th session of the Eighth National People's Congress Standing Committee on 27 October 1994. Published in English in the Post-Soviet Media Law and Policy Newsletter, Issue 16, 17 March 1995, Howard Squadron Program in Law, Media and Society, Benjamin N. Cardozo School of Law, Yeshiva University, 55 Fifth Avenue New York, NY 10003. Available in English through the Observatory.**

### News

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

#### COUNCIL OF EUROPE:

State of Signatures and Ratifications of the European Convention on cinematographic co-production/Convention Européenne sur la coproduction cinématographique, 2.10.1992, European Treaties Series/Série Traités Européens No 147, entry into force: 1.04.1994, on 1 March 1995 - Part 3: Update

In IRIS 1995-3: 12-15, a list was published, updating Signatures and Ratifications of European Conventions that are relevant to the audio-visual sector. However, on the date of publication of IRIS 1995-3, on 24 March 1995, Germany and the Netherlands deposited their instruments of ratification. The Convention will now enter into force in Germany as well as in the Netherlands on 1 July 1995. Both countries made a Declaration on the time of depositing the instrument of ratification; the Declaration of the Netherlands includes a Territorial Declaration:

##### *Germany*

Declaration contained in a letter from the Permanent Representative of Germany, dated 24 March 1995, handed to the Secretary General at the time of deposit of the instrument of ratification, on 24 March 1995 (original language: French):

"In accordance with Article 5 of the Convention, The Federal Republic of Germany declares that the: Bundesamt für Wirtschaft, Frankfurter Str. 29-31, D-65760 ESCHBORN shall be the authority to which application for co-production status shall be submitted."

##### *The Netherlands*

Declaration signed and sealed at The Hague on 1 March 1995 (original language: English):

"The Minister for Foreign Affairs of the Kingdom of Netherlands, DECLARES, in conformity with the provisions of Article 16, paragraph 1, sub b, of the European Convention on Cinematographic Co-production, with Appendices, done at Strasbourg on 2 October 1992, that the Kingdom of the Netherlands ACCEPTS the said Convention for the Kingdom in Europe, and that the provisions so accepted shall be observed in their entirety."

#### COUNCIL OF EUROPE: Establishment of a network of national correspondents on media concentrations and pluralism

In its first meeting, on 26 and 27 January 1995, the Committee of experts on media concentration and pluralism of the Council of Europe decided to establish a network of national correspondents.

This Committee is made responsible for following and analysing the evolution of media concentrations at a pan-European level with a view to formulating, as appropriate, legal or policy action proposals should it transpire that the evolution of media concentrations presents negative effects for political and cultural pluralism in Europe (see: IRIS 1995-2: 10).

The idea is that the national correspondents collect the information that is relevant to the work of the Committee. For this purpose, two questionnaires have now been designed: one for the collection of information on the level and evolution of media concentrations in the 34 Member States of the Council of Europe and one for the collection of information on relevant national legislation in this area.

EUROPEAN AUDIOVISUAL OBSERVATORY:  
Successful seminar on international co-production contracts

On 29 March 1995, the European Audiovisual Observatory organised a second session in its programme aiming at the identification of the need for reliable information on legal issues relating to international film and television co-production contracts and at concrete proposals for possible practical solutions to fulfil the identified information needs.

The work started out in Summer 1994 with a questionnaire that was sent to film and TV producers and their legal advisors. The results were discussed by representatives of big, medium-sized and small to film and TV producers from all over Europe, by legal advisors specialising in international co-production contracts, and by representatives of the Council of Europe, the Commission of the European Communities, EURIMAGES, EURO-AIM, and others in the first session which took place on 17 and 18 November 1995.

After the first session, the European Audiovisual Observatory commissioned a study from Mr Michel Györy of the *Centre européen de recherche et d'information sur le cinéma et l'audiovisuel* (CERICA) in Belgium. Mr Györy was asked to identify the main problems met with regard to legal aspects of film and television coproduction contracts, to identify the information needed to across Europe and to come up with concrete solutions to answer to the requirements of this sector. These possible solutions were discussed during the second session. Mr Györy's report will be published by the Observatory together with recommendations for concrete actions to be undertaken.

The discussions concentrated on the development of a system of rapid mediation in case of conflicts between producers, on differences in legal concepts in different languages and on the nature and drafting of international co-production contracts.

As regards a system of rapid mediation, it was proposed to identify the type of conflicts that may arise from international co-production contracts and compose a list of independent experts in the different fields of possible conflicts. On a case by case basis, upon request of the producers involved, a mediation panel could then be composed quickly. This solution would require from parties to international co-production contracts that they accept this form of mediation as a method to rapidly solve any possible conflicts.

In regards to differences in legal concepts in different languages, Mr Györy announced the publication of a study in which CERICA has compared the concepts in the Copyright Acts of 18 European countries. This study is due to be published this month in French and soon also in English. Further studies with a view to publish comparisons of relevant legal concepts in different languages are planned, as is the creation of a comparative database on such concepts.

The third main issue, the nature and the drafting of an international co-production contract, resulted in two proposals. The first one proposes that the Observatory identified experts in the field of international private law; the second one concerns the development of a software solution for the drafting of international co-production contracts. By answering YES or NO to a number of questions asked by the programme (questions to identify who will own the copyright, whether or not the receipts will be shared, etc.), a producer would give the computer an idea of the type of contract he is looking for. When all questions are answered, the programme would automatically compile a list of model clauses that are relevant to the type of contract chosen. With his answers to the questionnaire and the list of model clauses, the producer could then seek legal advice to draft the contract. EURIMAGES offered to start collecting model clauses.

EURO-AIM and Ms Antoinette d'Esclaibes of S.B.P. Conseils presented their work on a Charter for the commercialisation of audio-visual works.

SWEDEN: National Council for Pluralism in the Media

On 7 March 1995 the Swedish Government announced the establishment of a National Council for Pluralism in the Media. Its general mandate is to safeguard freedom of expression by promoting pluralism in the media. The Council will submit a concluding report by summer 1998, when its future will be reconsidered.

The tasks of the Council are:

- to monitor and analyze developments - international, national, regional and local - in the mass media, in particular tendencies towards concentrations of ownership and other forms of influence on the media;
- to participate in the public debate on pluralism and concentration of power within the mass media;
- to examine and suggest measures to promote pluralism and competition. Among possible measures to be examined are voluntary agreements between actors in the media market and legislation.

Chairman of the Council is Johan Munck, Justice of the Supreme Court; the other six members are university professors and media professionals. The head of its secretariat is Dr Jens Cavallin.

The Council is eager to establish contacts with similar bodies in other countries. It will be the Swedish correspondent to the Council of Europe in matters regarding pluralism in the media.

The address is: Swedish Council for Pluralism in the Media, Ministry of Culture, S-10333 Stockholm, tel.: +46 8 4053004 (Principal Secretary) and +46 8 4053570 (Office); fax: +46 8 241727. See also IRIS 1995-1: 15.

(Jens Cavallin, Ministry of Culture, Sweden)



#### EUROPEAN UNION:

##### Proposal for a new legal framework for television services in Europe

The Commission of the European Communities has passed a proposed review of the "Television without Frontiers" Directive. The official text was not yet available to be included in the current issue of IRIS.

The actual aim of the review is to take into account the technological development of the market, along with certain difficulties that had appeared with regard to the application of the present text (differing interpretations of the text as to the regulations applicable for a radio broadcaster ; regulations concerning the promotion of European programmes).

The Commission followed the recommendations of Mr Bangemann, Mr Monte and Mr Oreja and decided not to widen the field of application of the "Television without Frontiers" Directive to include the new interactive audiovisual services, in particular the video on demand service. The Commission considers that these new services should be dealt with separately as they give consumers the power to select and have control over the content of what they decide to watch, while the directive was drawn up for traditional television and would have been ill-suited to provide protection for the general interest and to provide for the free circulation of the services within the unrestricted area.

The Commission also took into account the various uncertainties (economic, technological, the impact upon society, etc.) surrounding the development of these new audiovisual services and decided it would be premature at this particular stage to regulate them. It also decided that analytical studies should be carried out within the framework of the basic principles governing the internal market, and that a wide-ranging consultation process should be undertaken with the interested parties.

The Commission is convinced that the fundamental freedoms concerning the right of establishment and the freedom of movement of services (Articles 52 and 59 of the EEC Treaty) show the path to be followed for setting out its future policy in this field. A certain amount of work has already been carried out or is being prepared to implement this regulatory framework and in the following fields :

- a Directive on the protection of data concerning information on private individuals
- a Green Paper concerning the protection of intellectual property within the information society
- a Green Paper on commercial communications;
- a Green Paper on the protection of encoded services
- ongoing consultation on media ownership

consultation as to the necessity of an internal market mechanism that would guarantee the transparency of any new national proposal as well as its compliance with the current principles of the internal market , especially the unrestricted circulation of services.

#### GERMANY: 4th Saarbrücken Media Congress

The fourth Saarbrücken Media Congress is to take place from the 15 - 17 April 1995 at Halberg Castle. The theme of this year's congress will be "Communication throughout Europe - Markets, Makers, Consumers". Through lectures, workshops, debates and discussion with experts delegates will be given the opportunity to find out about current and future media policies in Europe. Delegates will also have the chance to talk with scientific, political and business experts on a wide range of topics going from the role of journalists in the media world of the year 2000 to issues concerning media concentration in Europe. Legal issues linked to media concentration controls will be the subject of a seminar organised by the EMR (*Institut für Europäisches Medienrecht*) at and in conjunction with the congress. Programme available in German through the Observatory.

(Volker Kreutzer, *Institut für Europäisches Medienrecht* - EMR)

#### GERMANY: Bertelsmann and Canal+ set up a new company

Bertelsmann AG and the French TV channel Canal+ have set up a joint venture for the acquisition of TV broadcasting rights. Final decisions on the legal structure and the location of the head quarters are yet to be taken but until then, the company will operate under the name "Canal+UFA" in Hamburg. The company's primary activity will be to acquire and market television broadcasting rights.

(Volker Kreutzer, *Institut für Europäisches Medienrecht* - EMR)

#### GERMANY: Federal Cartel Office issues an official warning to pay-TV company

The Federal Cartel Office (*Bundeskartellamt*) has issued an official warning to a company of the Bertelsmann AG group, to the French TV channel Canal Plus and to a company belonging to Kirch Gruppe. The three companies, which jointly run the German pay-TV channel "Première", had drawn up an agreement not to compete against one another on the Pay-TV markets beyond their activities in "Première". This agreement was contested by the Federal Cartel Office and the companies have been threatened with legal action. A reply statement by the companies is expected in the near future.

(Volker Kreutzer, *Institut für Europäisches Medienrecht* - EMR)

## AGENDA

### Die Finanzierung des Rundfunks nach dem Gebührener Urteil des Bundesverfassungsgerichts

5. Mai 1995

Venue: Köln-Lindenthal, new lecture room building of the university.

Information and registration: Institut für Rundfunkrecht, Robert-Koch-Straße 26, D-50931 Cologne/Köln, tel.: +49 221 416613, fax: +49 221 416892.

### Les mardis de l'Audiovisuel Cycle de conférences sur le droit de l'audiovisuel européen

9 May 1995

Carine Doutrelepont: "La jurisprudence de la Cour de justice dans le domaine de l'audiovisuel".

Time: 6.30 pm-8.00 pm  
Place: Institut d'Etudes européennes, Avenue F.D. Roosevelt, 39 - CP 172, Séminaire III, B-1050 Brussels.

Organisation: "Université Libre de Bruxelles (ULB), Centre de droit de l'information et de la communication de la faculté de droit" in collaboration with the "Institut d'études européennes".

Information and Registration: Jeanne De Ligne, Indtitut d'Etudes européennes, Avenue F.D. Roosevelt 39, B-1050 Brussels, Tel.: +32 2 6503093. Price: BEF 1,100.

### European Telecommunications Law; conference and workshop. Developments in the legal and regulatory framework

Brussels 10-12 May 1995, Radisson SAS Hotel, Wolvengrachtstraat 47/Rue du Fosse-Aux-Loups, B-1000 Brussels, ph.: +32 2 2192828, fax: +32 2 2196262, information and registration: IBC Technical Services Ltd., Gillian Charlton or Caroline Bishop, Gilmoora House,

57-61 Mortimer Street, London W1N 8JX, ph.: +44 171 6374383, fax +44-171-6361976 / 6313214, £ 995 + 20.5% VAT; documentation only: £ 185.

### EC Competition Law (c.a. Networks, Intellectual Property)

15 & 16 May 1995

Venue: Radisson SAS Portman Hotel, London W1, information and registration: Ruth Hogg or Susan Verneuil, IBC Technical Services Limited, Gilmoora House, 57-61 Mortimer Street, London W1N 8JX, tel.: +44 171 6374383, fax: +44 171 6313214, £ 675 plus 17.5% VAT.

### 4. Saarbrücker Medientage:

15 -17 May 1995

Venue: Schloß Halberg, Saarbrücken

Theme: Communication in Europe - Market, Makers, Consumers

Organisation: Arbeitsgemeinschaft Saarbrücker Medientage, Am Ludwigsplatz 14, D-66117 Saarbrücken, Tel.: +49 681 5011115, Fax: +49 681 5011159.

In the framework of the *Medientage*, the *Institut für Europäisches Medienrecht* will organise an Expert Seminar on *Medienkonzentrationskontrolle im Spiegel der europäischen Entwicklung* (Media concentration in the mirror of European developments).

### The Fourth Annual Conference on Cable Telephony. Services, Customers, Tariffs and Interconnection

18-19 May 1995,

The Dorchester Hotel, London W1, information and registration: Caroline Bishop or Gillian Charlton, IBC Technical Services Limited, Gilmoora House, 57-61 Mortimer Street, London W1N 8JX, tel.: +44 171 6374383, fax: +44 171 6313214 or +44 171 6361976, £ 735 plus 17.5% VAT. Documentation only: £ 185.

### Making international multimedia deals in the interactive age

Cannes, 21-22 May 1995, IXth Conference organized by the Institute of International Business Law and Practice of the International Chamber of Commerce and the International Bar Association, Section on Business Law in association with the Association des Conseils et Experts du Cinéma et de la Communication Audiovisuelle, Association Française des Producteurs de Films et de Programmes Audiovisuels, Chambre Syndicale des Producteurs et Exportateurs de Films Français, Fédération Nationale des Distributeurs de Films, International Association of Entertainment Lawyers, Media Law Association of Australasia, Union des Producteurs de Films, Union Syndicale de la Production Audiovisuelle. Information and registration: ICC Institute of International Business Law and Practice, 38 Cours Albert 1<sup>er</sup>, F-75008 Paris, tel.: + 33 1 49532921 or +33 1 49532867, fax: +33 1 49532938, FF 4,650.

### 41st Annual Meeting of the European Cable Communications Association (ECCA)

29-31 May 1995, open for all interested parties.

Venue: Zürich  
Panel discussions:  
Multimedia and cable  
Development of future relations between cable operators and programme providers  
Information:  
Karine van de Woestijne, tel.: +32 2 5211763, fax: +32 2 5217976.

### Mitteldeutsches Medienforum Leipzig

29. Mai - 1 Juni 1995

Ort: Leipzig, Hotel Intercontinental.  
Veranstalter: Medienstadt Leipzig GmbH in Kooperation mit den Landesregierungen und den Landesmedienanstalten der Länder Sachsen, Sachsen-Anhalt

und Thüringen, den Mittel-  
deutschen Rundfunk,  
der Deutschen Telekom,  
der Friedrich Ebert Stiftung,  
dem Medienstadt LEIPZIG e.V.  
und der Stadt Leipzig.  
Auskunft und Anmeldung:  
NETCOM Institut,  
Tel.: +49 341 1267470,  
Fax: +49 341 1267472.

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

Theme:

*Démocratie médiatique*

15 May 1995 -

Daniel Bougnoux:

"Le direct, la démocratie  
et les effondrements  
symboliques";

29 May 1995 -

Philippe Raynaud:

"La transparence";

12 June 1995 -

Séance de synthèse.

Claude Lefort: "La démocratie  
à l'épreuve des médias".

Time: 5.30 pm - 7.30 pm

Place: ENM, 3 ter quai aux  
fleurs, F-75004 Paris.

Organisation: Ecole Nationale  
de la Magistrature (ENM), the  
Institut des hautes études sur  
la justice and ESPRIT.

Information and Registration:

Anne Avy, IHEJ,

8 rue Chanoinesse,

F-75004 Paris,

Tel.: +33 1 40510251,

no charge.

**Intellectual Property Rights in  
multimedia: development,  
clearance & protection**

London, 5 and 6 June 1995.

Information: Multimedia

Business & Law International,

tel. +44 171 4177790,

fax +44 171 4177791.

**International Conference  
on Media Concentration:  
Transparency, Access &  
Pluralism**

Copenhagen, 12 & 13 June

1995, organised by

the Danish Media Committee in  
cooperation with UNESCO.

Information:

Ms Else Fabricius,

Prime Minister's Office,

+45 3392 2292.

**Asian Telecommunications  
Conference**

Hong Kong, 15 & 16 June

1995, Island Shangri-La Hotel,

Financial Times Conferences,  
P.O. Box 3651,  
London SW12 8PH,  
ph.: +44 181 6739000,  
fax: +44 181 6731335,  
£ 720.

**Medienforum  
Nordrhein-Westfalen 1995**

19-21 June 1995

Organised by the State Chan-  
cellery of the Land North  
Rhine-Westphalia and the State  
Broadcasting

Corporation of North Rhine-  
Westphalia (LfR).

*Media Policy Congress:*

*The consequences - economic,  
technological, political and for  
programming -*

*of multimedia networks of  
media production and  
distribution on radio, TV,  
cinema and the print media.*

Venue: Maritim Hotel,

Heumarkt 20 D-50667

Cologne/Köln.

Information and registration:

C.C.M. Cologne Communica-  
tion Management GmbH, Ulrike

Heitzer, P.O. Box 180180,

D-50504 Cologne,

tel.: +49 221 9257930,

fax: +49 221 92579393.

**Post-Soviet Media  
in Transition. An East-West  
Symposium**

25-27 August 1995,

John Logie Baird Centre

(Universities of Glasgow and

Strathclyde), the Stirling Media

Research Institute (University

of Stirling) and the Department

of Slavonic

Languages and Literatures

(University of Glasgow),

Information and registration:

Dr. Brian McNair, Stirling

Media Research Institute,

University of Stirling,

Stirling FK9 4LA, Scotland,

ph.: +44 786 467525,

fax: +44 786 466855, e-mail

address on the internet:

brian.mcnair@stirling.ac.uk.

**Philantropy and the media**

International Conference, Malta,

13-15 September 1995,

Selmun Castle.

Information and registration:

Interphil, CIC Case 20,

CH-1211 Geneva 20,

ph.: +41 22 3776717,

fax: +41 22 7347082,

US\$ 250.

IRIS offers you the  
opportunity to inform  
its readers on new publica-  
tions and conferences in  
the field of law relevant to  
the audio-visual sector.

If you wish your publication  
or conference to be  
reported on these pages,  
please send detailed  
information to:

**European Audiovisual  
Observatory  
IRIS - Editor  
76, allée de la Robertsau  
F-67000 Strasbourg**

**PUBLICATIONS**

Allan R.W. *Digital cable radio - The tensions between the music industry and the broadcasting industry.* Maklu Publishers, Apeldoorn; Antwerpen, 1994. 142p., ISBN 9067150126, f125

Baker, R. *Media Law: A user's guide for film and programme makers.* Blueprint, London, 1995. ISBN 0-948905-95-6, £39

Coster, S.-P. de; Jongen, F. *MEDIALEX 1994: Recueil de textes commentés.* Kluwer Editions Juridiques, Diegem, 1994. 878p., ISBN 2873770821, FB3,750 avec abonnement (une mise à jour est prévue en 1995 et une nouvelle édition paraîtra en 1996) ou FB4, 250 sans abonnement,

Doutrelepont, C. (dir.). *L'Europe et les enjeux du GATT dans le domaine de l'audio-visuel* (Collection de la faculté de droit. Université libre de Bruxelles). Bruylant, Bruxelles, 1994. 314p., ISBN 2802709666

*Droit de la communication: Législation* (Collection Légipresse). Victoires-Editions, 38 rue Croix-des-Petits-Champs, F-75001 Paris. 140p., FF370

*Droit de la communication: Jurisprudence.* (Collection Légipresse). 2<sup>ème</sup> ed. Victoires-Editions, 38 rue Croix-des-Petits-Champs, F-75001 Paris. 200p., FF320

Meinel, W. *Frontiers of European Broadcasting Legislation.* B.F.I., London, 1995. 96p., ISBN 0 85170 413 1, £7.95

Nelson, Vincent. *The Law of Entertainment and Broadcasting.* Sweet & Maxwell, Andover; Hants, 1995. ISBN 0-421-50150-2, £79.

Pukall, K. *Meinungsvielfalt im Rundfunk nach der audiovisuellen Revolution: verfassungs- wettbewerbs- und europarechtliche Aspekte* (Europäische Hochschulschriften, 1484). Lang, Frankfurt am Main; Bern, 1994. 225p., ISBN 3-631-46425-8, 59FS

Rij, C. van (ed.). *Moral rights.* Maklu Publishers, Apeldoorn; Antwerpen, 1995. 288p., ISBN 9067150134, f195

Tegge, A. *Die internationale Telekommunikations-Union: Organisation und Funktion einer Weltorganisation im Wandel* (Wirtschaftsrecht der internationalen Telekommunikationen: 21) Nomos Verlagsgesellschaft, Baden-Baden, 1994. 373p., ISBN 3-7890-3230-1, 98 DM

DLM-Schriftenreihe: *Digitales Fernsehen - Marktchancen und ordnungspolitischer Regelungsbedarf.* Verlag Reinhard Fischer, 1995. 188p., ISBN 3889271553, DM25.

*Die Sicherung der Meinungsvielfalt* (Band 4). Vistas Verlag, Berlin, 1995. 504p., ISBN 3891581343

*Allgemeine Geschäftsbedingungen der Deutschen Telekom* (20. Ergänzungslieferung, Januar 1995). Hüthig Fachverlage., Heidelberg, 1995. 406p., ISBN 3768584216, DM109,62  
VPRT (ed.). *Öffentlich-rechtlicher Rundfunk und Werbefinanzierung.* Vistas-Verlag, Berlin, DM35.

**Subscription**

1 calendar year (10 issues, a binder + a special issue)\*  
FF 2.000 / US\$ 370 / ECU 310 (member states of the Observatory)  
FF 2.300 / US\$ 420 / ECU 355 (non-member states of the Observatory)

Please send me (quantity) \_\_\_\_\_ subscriptions of "IRIS"

\_\_\_\_\_ x FF 2.000 / US\$ 370 / ECU 310 = \_\_\_\_\_  
\_\_\_\_\_ x FF 2.300 / US\$ 420 / ECU 355 = \_\_\_\_\_

in english  in french  in german

Charge my credit card:

Visa  Eurocard  Mastercard

Card n° : \_\_\_\_\_

Expiry date \_\_\_\_\_

Signature \_\_\_\_\_

Check inclosed in French francs payable to the European Audiovisual Observatory

Bank transfer to the account n° 10067 / 00101 / 10 320 981983/30 of the European Audiovisual Observatory at the SOGENAL Bank, Council of Europe, Strasbourg

Name / Surname \_\_\_\_\_

Title/Position \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

Post Code \_\_\_\_\_

Town \_\_\_\_\_ Country \_\_\_\_\_

Tel. n° \_\_\_\_\_ Fax n° \_\_\_\_\_

E-mail \_\_\_\_\_

\* Subscribers who subscribe during the course of a calendar year will be invoiced according to the remaining number of issues to be published that year. Subsequent subscriptions will be automatically renewed for consecutive calendar years unless cancelled before 31 December by written notice sent to the publisher.

Please return this form to : European Audiovisual Observatory, Anne Boyer - Administrator, 76, allée de la Robertsau, F-67000 Strasbourg (France)  
This data will be processed in the database of the European Audiovisual Observatory and may be communicated to third parties. In accordance with the rules concerning databases and the protection of privacy adopted by the Council of Europe, all those that appear in the Observatory's address database have a right of access to the information concerning themselves and to ask for the modification or removal thereof. If you do not want your data to be communicated please tick this box.