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2001 - 6

# INTERNATIONAL

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# NATIONAL

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# INTERNATIONAL

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### European Court of Human Rights: Cases of B. and P. v. the United Kingdom

**Dirk Voorhoof**
*Media Law Section of the Communication Sciences Department Ghent University*

In the cases of B. and P. v. the United Kingdom, the applicants complained that they had been barred from divulging information about the proceedings on custody rights over their children. The judge dealing with the case had ordered that no documents used in the proceedings should be disclosed outside the court. B. had also been warned by the judge that any publication of information obtained in the context of the proceedings would amount to contempt of court. As the case was not heard in public and the judgments were not publicly pronounced, B. and P. complained in Strasbourg that these restricting measures on the publicity of their court case ought to have been considered to be in breach of Article 6 § 1 (right to a fair hearing) and Article10 (freedom of expression) of the European Convention on Human Rights.

In a judgment of 24 April 2001, the European Court of Human Rights (Third Section) noted that the proceedings in question concerned the residence of each man's son following the parents' divorce or separation, which were prime examples of cases where the exclusion of the press and public might be justified to protect the privacy of the child and parties and to avoid prejudicing the interests of justice. Concerning the publication of the judgments in question, the Court observed that anyone who could establish an interest was able to consult and obtain a copy of the full text of the judgments in child residence cases, while some of these judgments were routinely published, thus enabling the public to study the manner in which the courts generally approach such cases and the principles applied in deciding them. Under these circumstances, the Court reached the conclusion that there had been no violation of Article 6 § 1, either regarding the applicants' complaints about the public hearing or the public pronouncement of the judgments. Finally, the Court held that it was not necessary to examine separately the applicants' complaint under Article 10 of the Convention, thereby implying that the Court did not find a violation of Article 10 of the Convention either. ■

**Judgment by the European Court of Human Rights (Third Section), Cases of B. and P. v. the United Kingdom, Application nos. 36337/97 and 35974/97 of 24 April 2001, available at: http://www.echr.coe.int**

**EN**

### European Court of Human Rights: Case of Cyprus v. Turkey

The judgment of the European Court of Human Rights (Grand Chamber) of 10 May 2001 deals with one of the few cases in which the applicant is the government of another State Party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this case, the Government of the Republic of Cyprus alleged that due to Turkey's military operations in

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• **Publisher:**
European Audiovisual Observatory
76, allée de la Robertsau
F-67000 STRASBOURG
Tel.: +33 (0)3 88 14 44 00
Fax: +33 (0)3 88 14 44 19
E-mail: obs@obs.coe.int
http://www.obs.coe.int/

• **Comments and Contributions to:**
IRIS@obs.coe.int

• **Executive Director:** Wolfgang Closs

• **Editorial Board:** Susanne Nikoltchev, Co-ordinator – Michael Botein, Communications Media Center at the New York Law School (USA) – Susanne Lackner, Directorate General EAC (Audiovisual Policy Unit) of the European Commission, Brussels (Belgium) – Alexander Scheuer, Institute of European Media Law (EMR), Saarbrück (Germany) – Bernt Hugenholtz, Institute for Information Law (IViR) at the University of Amsterdam (The Netherlands) – Christophe Poirel, Media Division of the Directorate of Human Rights of the Council of Europe, Strasbourg (France) – Andrei Richter, Moscow Media Law and Policy Center (MMLPC) (Russian Federation)

• **Council to the Editorial Board:**
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• **Documentation:** Edwige Seguenny

• **Translations:** Michelle Ganter (co-ordination) – Brigitte Auel – Véronique Campillo – Paul Green – Isabelle Herold-Vieublé – Marco Polo Traductions – Martine Müller – Katherine Parsons – Stefan Pooth – Patricia Priss – Erwin Rohwer – Kerstin Temme – Catherine Vacherat

• **Corrections:** Michelle Ganter, European Audiovisual Observatory (co-ordination) – Francisco Javier Cabrera Blázquez & Irene Gentile, European Audiovisual Observatory – Florence Pastori & Géraldine Pilard-Murray, post graduate diploma in *Droit du Multimédia et des Systèmes d'Information*, University R. Schuman, Strasbourg (France) – Candelaria van Strien-Reney, Law Faculty, National University of Ireland, Galway (Ireland)

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**Dirk Voorhoof**
*Media Law Section of the Communication Sciences Department Ghent University*

Northern Cyprus, and especially after the proclamation of the Turkish Republic of Northern Cyprus in 1983 ("the TRNC"), the Government of Turkey was to be considered responsible for continuing violations of several human rights. One of the violations arising out of the living conditions of Greek Cypriots in Northern Cyprus concerned freedom of expression and information, as protected by Article 10 of the Convention. More specifically, it was asserted that the TRNC authorities engaged in excessive censorship of school-books and restricted the importation and distribution of media, especially Greek-language newspapers and books whose content they disapproved. Referring to the Commission's report, the Court was of the opinion that there was not sufficient evidence that restrictions were imposed on the importation of newspapers, the distribution of books or on the reception of electronic media. The Court, on the other hand, found that during the period under consideration, a large number of school-books, no matter how innocuous their content, were unilaterally censored or rejected by the authorities. According to the Court, the respondent Government failed to provide any justification for this form of wide-ranging censorship which far exceeded the limits of confidence-building methods and amounted to a denial of the right to freedom of information. These measures of excessive censorship were considered by the Court to be a violation of Article 10 of the Convention. ■

**Judgment by the European Court of Human Rights (Grand Chamber), Case of Cyprus v. Turkey, Application no. 25781/94 of 10 May 2001, available at: http://www.echr.coe.int**

**EN**

# EUROPEAN UNION

## European Commission: From TV Directive to Content Directive?

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

A year ago, as required by Article 26 of the Directive itself, the Commission began preparing for a review of the "Television Without Frontiers" Directive 89/552/EEC as amended by Directive 97/36/EC, by publishing a call for tender for various studies relating to different parts of the text. Reports on the quota system (Art. 4-6, see infra) and on the impact of TV advertising and teleshopping on minors were also commissioned.

According to the Education and Culture Commissioner, the review of the Directive will focus particularly on a liberalisation of the provisions on advertising, sponsorship and teleshopping. However, consideration will also be given to what impact certain new types of advertising, such as virtual or split-screen advertising, might have on advertising regulations. In addition, the practical effectiveness of the Directive's provisions on quotas for European works and independent productions is also being investigated and alternative or additional measures to promote audiovisual production are being evaluated.

Following the review and development of the regulatory framework for communications networks and services, access, authorisation and the Universal Service, instigated through the Communications Review 1999, a set of regulations is currently being prepared for adoption next year. These rules will form a significant contribution to the separate regulation within the Community of transmission networks on the one hand and the content of electronic communications on the other. Consideration is also now being given to how provisions governing content, bearing in mind the specific characteristics of broadcasting services, can be applied to the electronic media in general. Increasing attention is also being paid to self- and co-regulation, which were discussed in detail during the German Presidency of the Council in 1999.

In view of the results of the study on TV advertising and minors, the Commission believes that tightening up existing regulations, particularly a total ban on advertising aimed at children, is out of the question. ■

**http://europa.eu.int/comm/avpolicy/stat/studi_en.htm**

**EN**

## European Commission: Study on Implementataion of Chapter III of "Television without Frontiers" Directive

**Tarlach Mc Gonagle**
*Institute for Information Law (IViR) University of Amsterdam*

The European Institute for the Media recently published the results of a six-month Study on the provisions existing within the Member States and the EEA (European Economic Area) States to implement Chapter III of the "Television without Frontiers Directive" (Directive 97/36/EC of the European Parliament and the Council of 30 June 1997 amending the Council Directive of 3 October 1989), conducted on behalf of the European Commission.

The aim of the study was to provide the Commission with a comparative overview of the different provisions giving effect to Chapter III of the "Television Without Frontiers" Directive in each of the 18 States examined. Detailed questionnaires directed at the regulatory authorities and broadcasters in each State formed the basis of the Study. The broadcasters were selected from a variety of categories: public service, private, special interest, free-to-air and pay-TV. The questionnaires, for their part, focused on the detailing of legislative, regulatory, self-regulatory and administrative measures for the transposition of Chapter III at the national level, and the identification of further measures for promoting the distribution and production of television programmes (including in regard to certain types of content, linguistic requirements and the origins of production). The questionnaires also gave due attention to the implementation and monitoring of their thematic preoccupations. The Study offers an analysis and evaluation of approaches adopted in the countries examined.

Chapter III of the "Television Without Frontiers" Directive is entitled "Promotion of distribution and production of television programmes." As such, Article 4 of the Directive enjoins Member States to "ensure where practicable and by appropriate means, that broadcasters reserve for European works [...] a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping." In a similar vein, Article 5 provides for the reservation by broadcasters of at least 10% of their transmission time (as qualified by Article 4) or, alternatively, at least 10% of their programming budget for independently-produced European works. Both objectives "should be achieved progressively, on the basis of suitable criteria". ■

**"Study on the provisions existing within the Member States and the EEA States to implement Chapter III of the "Television without Frontiers" Directive (Directive 97/36/EC of the European Parliament and the Council of 30 June 1997 amending the Council Directive of 3 October 1989)" by Eleftheria Pertzinidou (on behalf of the European Commission), Düsseldorf, May 2001, available at: http://europa.eu.int/comm/avpolicy/stat/quot_en.pdf**

**EN**

## European Commission: Almost One Billion EURO for European Film and Audiovisual Industry

**Tarlach Mc Gonagle**
*Institute for Information Law (IViR) University of Amsterdam*

It was announced on 17 May at the Cannes Film Festival that the European Commission and the European Investment Bank Group (EIB Group) would make almost one billion Euros available to the European Film and Audiovisual Industry.

In the context of this joint-financing initiative, the Commission and the EIB Group have agreed to focus on a number of key areas: training (to include measures aimed at familiarising financial and banking personnel with the specificities of "financing audiovisual schemes and building teams of specialist venture capital fund managers"); development (priority financing by the EIB of projects with a pan-European dimension and connected to the Media Plus programme); distribution (simplification of eligibility requirements for Media Plus assistance for the transnational distribution of films and other works which meet certain criteria) and finance ("offering the Commission scope to encourage access to the counter-guarantee facilities made available to the banking sector by the EIB Group" in the context of the European audiovisual industry).

The 500 million Euros pledged by the EIB Group will involve lending by the EIB for financing medium- and long-term investment. Some of the total amount pledged will be used via its specialist subsidiary, the European Investment Fund (EIF), "for strengthening SME equity and providing guarantees." The five-year budget (2001-2005) of the European Commission's Media Plus programme will account for a further 400 million Euros (see IRIS 2001-1: 3). This money is intended for the purpose of fostering the distribution and promotion of audiovisual products and the co-financing of project development and professional training. Of this sum, 50 million Euros will be used for the training of audiovisual professionals, while the remaining 350 million Euros will be devoted to the "development, distribution and promotion of European cinematographic and audiovisual works." ■

**"EURO 1 billion for European film and audiovisual industry: two European Union initiatives," Joint Press Release European Commission / European Investment Bank (IP/01/717) of 18 May 2001, available at:**
**http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/717|0|RAPID&lg=EN**

**EN-FR-DE**

# NATIONAL

## BROADCASTING

### AT – *ORF* Becomes Associate Member of *ARTE*

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

Under a contract signed in March this year, Austrian public television broadcaster *ORF* has increased its co-operation with the European cultural channel, *ARTE*. The main purposes of the new association are programme exchange - eg the broadcast of *ORF* programmes on *ARTE* - and co-productions. An *ORF* editor will also be permanently seconded to *ARTE,* and *ORF* will participate in an advisory capacity at meetings of *ARTE* bodies such as the Programming Committee and General Assembly.

The contract, which entered into force on 1 April, builds on co-operation between the broadcasters dating back to 1998. ■

**http://kundendienst.orf.at/fakten/sparten/arte.html**

**DE**

### BG – Bulgarian National Radio without Legitimate Director General

**Antoaneta Arsova**
*Association of Bulgarian Broadcasters*

Bulgaria's Supreme Administrative Court invalidated the appointment of the Director General of the Bulgarian National Radio (BNR).

According to the Bulgarian Radio and Television Act, the National Council for Radio and Television (NCRT) appoints the Director General. After the NCRT failed to elect a director in January following an application procedure announced in December 2000, the Council initiated a second procedure and invited interested Bulgarian organizations to submit their nominations for Director General of the National Radio. After the nominations the Council organized public hearings where each of the eight nominees presented their programs.

On 6 February the NCRT chose one candidate from among all nominees as Director General of Bulgarian National Radio. When the appointment was announced over 500 radio employees began a protest against the NCRT's decision stating that the chosen candidate did not fulfill the selection criteria announced by the Council. The acting director general, who had been appointed to serve as acting Director during the application process, dismissed a number of radio journalists who had participated in the protest.

In the meantime, the two organizations that nominated the candidate declared that their nominations are not valid because of an inconsistency with their own statutes and the requirements of the Non-Profit-Corporations Act.

The Supreme Administrative Court finally judged the nomination to be invalid and therefore decided the candidate had not been eligible for appointment.

Immediately after the decision of the Supreme Administrative Court, the National Council for Radio and Television took the decision to initiate the appointment of a new Director General of BNR. Nevertheless on 24 April the Acting Chairman of the NCRT submitted a personal appeal against the court ruling. ■

**Supreme Administrative Court Decision (unpublished); Bulgarian News Agency (BTA) 4 April 2001**

### DE – Saarland's Draft Single Regulatory Framework For All Types of Media

In mid-May, the Saarland regional government published a draft Media Bill which, for the first time in the history of German media legislation, would establish a single regulatory framework for the press, broadcasting and new media.

The Bill aims to create a legal framework which emphasises the freedom of all mass media to fulfil their

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

public duties, to lay down common minimum standards for the protection of important social values (particularly human dignity) and interests (mainly the protection of minors and consumers), to promote self-regulation by the media and media supervisory bodies as a means of upholding social values and, finally, to keep legislation in line with the latest technical developments.

The general provisions of the Bill contain standards applicable to all types of media. These are followed by special rules for the press and broadcasters, with general clauses and provisions concerning *Saarländische Rundfunk* (Saarland broadcasting corporation) and private broadcasting, the allocation of transmission capacities and the *Landesmedienanstalt Saarland* (Saarland *Land* Media Authority - *LMS*).

It is particularly worth noting that the Bill proposes the abolition of local and regional broadcasting licences. Broadcasters would merely need to inform the *LMS* that they were broadcasting a particular channel and authorisation would be automatic until revoked by the *LMS*. Accordingly, the *LMS*' role would change from granting licences to dealing with abuses. ■

***Entwurf eines Saarländischen Mediengesetz* (Draft Saarland Media Act - SMG), 17 April 2001, available at:**
**http://www.saarland.de/medien/inhalt/mediengesetz-entwurf.pdf**

**DE**

## DE – New Foreign TV Service

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

According to Section 4 of the so-called *DW-Gesetz* (*DW* Act), *Deutsche Welle (DW)*, the radio and television broadcaster established under federal law to provide broadcasting services abroad, must offer a comprehensive picture of German political, cultural and economic life to viewers and listeners outside Germany.

In order to fulfil this task, *DW*, a public broadcasting company, has for several years been stepping up its efforts to provide a more comprehensive and interesting service at a reasonable cost, by working together with other German public service broadcasters. Practical co-operation is now beginning to emerge not only with members of the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten in der Bundesrepublik Deutschland* (Union of German Public Broadcasters - *ARD*) and *Zweites Deutsches Fernsehen* (*ZDF*), but also with *Deutschlandradio*, of which both *ARD* and *ZDF* are members. The radio station, *Deutschlandfunk*, operated by *Deutschlandradio*, will broadcast radio plays, scientific and news reports free of charge.

Early next year, *Deutsche Welle*'s new German-language channel for North and South America will be launched as a pay-TV service, initially in the USA.

Preparations are also under way for a privately-run foreign TV channel. The *Landesrundfunkausschuss* (*Land* broadcasting board) of the Bremen *Landesmedienanstalt* (*Land* media authority) has already granted a licence for "*Channel D*", the operators of which also hope to begin broadcasting a pay-TV channel in South America, Florida and the Caribbean in the next year. They will only be granted a licence to do so if the other *Land* media authorities are in agreement and if the channel is found to conform with media concentration laws. ■

## DE – Kirch and *ARD/ZDF* Agree on Football World Cup Rights

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

At the beginning of May, the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten in der Bundesrepublik Deutschland* (Union of German Public Broadcasters - *ARD*) and *Zweites Deutsches Fernsehen* (*ZDF*) acquired from the Kirch group the broadcasting rights to 24 matches in the 2002 football World Cup. The matches include those described in Section 5a of the *Rundfunkstaatsvertrag* (Inter-State Agreement on Broadcasting) as "events of particular importance to society", which may not be broadcast exclusively on pay-TV, ie matches involving the German national team, the opening match, both semi-finals and the final.

The public-service broadcasters also agreed not to broadcast the matches digitally via satellite so that they would not interfere with the rightsholder's marketing opportunities in other European countries.

Furthermore, the broadcasters negotiated an option to purchase the broadcasting rights to the 2006 World Cup in Germany. The fact that they have first refusal to buy these exclusive rights fulfils the requirement that public-service broadcasters should be able to cover major events staged in their own country. If a deal is not struck by 2003, the price of the 2002 World Cup rights will be reduced. ■

## ES – Supreme Court Rejects Appeal Against National Technical Plan on DTTV

On 30 April 2001, the *Tribunal Supremo* (Supreme Court) rejected an appeal by the broadcaster *Sogecable* against Decree 2169/1998 on the National Technical Plan on Digital Terrestrial TV (DTTV).

According to the applicant, the Decree should be deemed illegal for several reasons:

a) The Decree regulates analog switch-off, which is supposed to take place before 2012. The applicant said that this matter should have been regulated by an Act of Parliament. Besides, *Sogecable* argued that it was disproportionate to impose the abandonment of analog TV in order to introduce DTTV.
b) The applicant claimed that the Decree was in breach of both its right to impart information by any means (as *Sogecable* will be obliged to abandon analog TV against its will) and the right of consumers to receive information by any means (as their analog TV sets would not be fit to receive digital TV and this implies that if they want to continue receiving public service terrestrial TV channels, they will be forced to acquire digital equipment, even if they have no desire to do so).
c) The National Technical Plan on DTTV provides for several national single frequency multiplexes (channels 66 to 69), which are not fit to provide regional programming. According to *Sogecable*, the National Technical Plan would, therefore, be in breach of Article 13 of the Statute of Radio and TV (Act 4/1980) and Articles 4 and 14 of the Private TV Act (Act 10/1988), as these provisions oblige national public and private broadcasters to provide regional programming.
d) In June 1999, the Government awarded a DTTV licence which allows a concessionaire to operate fourteen national DTTV programme services. *Sogecable* claimed that this provision was in breach of the Forty-Fourth

Additional Provision of Act 66/1997, which provides that the public authorities must award as many concessions as are technically possible.

The Supreme Court rejected the appeal on several grounds:

a) the transition from analog to digital TV is a technical matter, which can be better dealt with by a Decree, rather than by an Act, as *Sogecable* had submitted. Furthermore, the Supreme Court was of the opinion that this transition from analog to digital terrestrial TV is legitimate, as it will allow for a more efficient use of the radio spectrum and it would make it possible to provide new services (e.g., interactive TV).
b) the introduction of more efficient transmission technologies does not amount to a violation of the rights to impart and receive information by any means.
c) According to the Supreme Court, the national private broadcasters are obliged by Article 4 of the Private TV Act to provide regional programming in the terms established by the National Technical Plan, so it is within the discretionary powers of the Government to decide, by means of the National Technical Plan, which regional services, if any, must be provided by these broadcasters.
d) Lastly, the Supreme Court stated that the Forty-Fourth Additional Provision of Act 66/1997 obliges the public authorities to award as many concessions as are technically possible "taking into account the availability of radio spectrum and following the criteria set out by the National Technical Plan approved by the Government." The National Technical Plan on DTTV allows the Government to award one or several national DTTV concessions, so the Supreme Court held that it is legal to award one licence allowing a concessionaire to operate several DTTV programme services. Moreover, Article 9 of the Private TV Act, 1998, states that the Government, when awarding the concessions, must take into account the "technical and economic viability" of the project. The Supreme Court stated that the Government had taken these legitimate concerns into account when it decided to call a tender in order to award a DTTV concession allowing the concessionaire to operate fourteen DTTV programme services.

The Supreme Court had already rejected an appeal in February 2000 by the local Government of Viladecans against the National Technical Plan on DTTV. ■

**Alberto Pérez Gómez**
*Dirección de Internacional Comisión del Mercado de las Telecomunicaciones*

***Sentencia del Tribunal Supremo, Sala 3ª, de 30.04.2001, recurso núm. 610/1998 (Ponente: D. O. González González)* (Judgment of the Administrative Chamber of the Supreme Court of 30 April 2001)**

**ES**

## ES – Approval of New Madrid Act on Audiovisual Content and Additional Services

In April 2001, the Parliament of the Autonomous Community of Madrid decided to pass a new Act on Audiovisual Content and Additional Services.

This Act implements some provisions of the national Act 25/1994 (as amended by Act 22/1999), which incorporates the "Television Without Frontiers" Directive into Spanish Law. The new Madrid Act deals expressly with the protection of minors and with the right of TV users to receive accurate information on the programme planning of TV channels, as recognised by Article 18 of Act 25/1994.

It ought to be pointed out that this new Madrid Act does not cover some provisions of Act 25/1994 which might need further implementation in order to be applied by the relevant authorities, such as Article 5 of Act 25/1994 (on the duty of broadcasters to allocate at least 5% of their annual income to the financing of European films and TV movies).

The new Act also implements the provisions of the national Act 42/1995, on cable telecommunications, which oblige cable operators to reserve 40% of the capacity used for the provision of audiovisual services for independent content providers, provided there are enough of them requesting access to the cable network in question.

Furthermore, the new Madrid Act on Audiovisual Content creates the *Consejo Audiovisual de la Comunidad de Madrid*, an audiovisual commission which will give non-binding opinions on audiovisual matters to the Government of the Autonomous Community of Madrid, which, in turn, will exercise its powers through an audiovisual technical commission made up of civil servants.

This model is quite similar to the one that existed in Catalonia before the Catalan Act 2/2000 increased the powers of the *Consell de l'Audiovisual de Catalunya*, the Catalan regulatory authority, which is to date the only independent audiovisual regulatory authority at national or regional level to have been granted the power to impose sanctions on broadcasters under its jurisdiction for violations of the Spanish legislation implementing the "Television Without Frontiers" Directive.

Finally, the new Act also establishes sanctions which will be imposed on broadcasters under the jurisdiction of the Autonomous Community of Madrid who not comply with the Act's provisions. ■

**Alberto Pérez Gómez**
*Dirección de Internacional Comisión del Mercado de las Telecomunicaciones*

***Ley de la Comunidad Autónoma de Madrid 2/2001, de 18 de abril, de Contenidos Audiovisuales y Servicios Adicionales* (Act of the Autonomous Community of Madrid 2/2001 of 18 April on Audiovisual Content and Additional Services), *Boletín Oficial de la Comunidad de Madrid (BOCM) n. 105*, 4 May 2001, *pp. 8-15*, available at: http://www.comadrid.es/bocm/20010504/10500001.htm**

**ES**

## ES – Amendment of the Andalusian Decree on Local Terrestrial TV

In November 2000, the Andalusian Government approved a Decree on Local Terrestrial TV. This Decree regulates the granting of concessions for the provision of local TV services in Andalusia. The Decree implements national legislation in this field, in particular the national Act on Local Terrestrial TV (Act 41/1995). However, the national Government regarded this Andalusian Decree as not being fully compliant with Article 7 of the national Act 41/1995, which prohibits the creation of local networks and (with some exceptions) the local terrestrial TV concessionaires from entering into networking agreements. In order to clarify the situation, the Andalusian Government has finally decided to amend Article 6 of its Decree so as to ensure compliance with the provisions of national media law in this field, which the Decree now incorporates almost literally. ■

**Alberto Pérez Gómez**
*Dirección de Internacional Comisión del Mercado de las Telecomunicaciones*

***Decreto de Andalucía 114/2001, de 8 de mayo, por el que se modifica el Decreto de Andalucía 414/2000, de 7 de noviembre, por el que se regula el régimen jurídico de las televisiones locales por ondas terrestres* (Andalusian Decree 114/2001 of 8 May on the amendment of Andalusian Decree 414/2000 of 7 November on local terrestrial TV), *Boletín Oficial de la Junta de* Andalucía of 12 May 2001**

**ES**

## FR – Loft Story, the French Adaptation of Big Brother, under Investigation by the *CSA*

**Mathilde de Rocquigny**
*Légipresse*

A version of the well-known programme Big Brother, which appeared originally in the Netherlands, has now been adapted in France; it consists of filming, 24 hours a day, the lives of 11 single people enclosed in a loft flat for seventy days. The adaptation, called Loft Story, is unquestionably successful, but it has regular brushes with the *Conseil supérieur de l'audiovisuel* (the audiovisual regulatory authority - *CSA*).

Initially, the *CSA* made a number of ethical recommendations to the *M6* channel that broadcasts the programme, in particular calling on its managers to show the "greatest possible vigilance in order to avoid the broadcast getting out of hand and infringing respect for human dignity" and calling on the channel to ensure compliance with legislation on tobacco and alcohol (see IRIS 2001-5: 6).

In a communiqué on 14 May, the *CSA* called on *M6* to change the rules of the programme. Out of "respect for the dignity of the human person", the participants now have the benefit of "daily periods of respite of significant and reasonable duration that are not recorded, filmed or broadcast in any way". The process of eliminating the participants has also been altered; participants no longer vote on which participant they want to leave the loft, voting instead for their favourite participants. The *CSA* stated that "clauses must address and give greater detail on the content of this recommendation in the agreements currently being negotiated with *M6* and *TF1*, and in the agreements for the other audiovisual communication services" – a way of saying that the reservations made about broadcasts of this kind should become general rules.

The day after making this recommendation, the *CSA* served formal notice on *Vortex* – the company that operates the *Skyrock* radio station – because of what had been said on the air by presenters and listeners in two programmes devoted to the *M6* broadcast. The *CSA* found that some of the opinions expressed "seriously infringed respect for the dignity of the human person" and were likely to be "damaging to the proper physical, mental or moral development of minors". *Skyrock* asked the *CSA* to withdraw the notice, complaining of an "inadmissible and unworthy inequality of treatment" when compared with *M6*, the main party concerned, to which the *CSA* had merely sent recommendations which, contrary to the formal notice, did not have any official coercive force. The station announced that it would not be changing its editorial attitude. ■

***Communiqué n° 449 du CSA du 14 mai 2001 et décision du 15 mai 2001 portant mise en demeure à l'encontre de la Société Vortex* (Communiqué no. 449 by the *CSA* of 14 May 2001 and decision of 15 May 2001 on serving formal notice on the company *Vortex*)**
**ES**

## GB – Advertising Sales Arrangement Rules Revised

**David Goldberg**
*DeeJgee Research/ Consultancy*

From 17 May, new Independent Television Commission (ITC) regulations concerning airtime sales arrangements and certain types of share deals are in force. The aims of the revision are to "provide a more streamlined approach to regulation in this sector," to bring "the ITC's rules into line with the Competition Commission's decision [...] regarding further consolidation of ITV ownership" and to "help establish a more competitive market".

Some of the pre-existing rules have been relaxed or amended and there are several new prohibitions, e.g. on joint selling by Granada and Carlton (ITC licensees) and on the two London Channel 3 licensees selling their airtime jointly.

The new rules were devised following the publication of a November 2000 Consultation Paper on "Airtime Sales Arrangements and Share Deals." The main proposals, as detailed in the Introduction to that Paper are: (a) to allow joint selling arrangements for national airtime; (b) abolish the regulatory limit on Net Advertising Revenue share; (c) abolish requirements for prior written consent for joint sales arrangements involving regional Channel 3 licensees, and (d) to maintain a prohibition of joint selling arrangements between Carlton Communications and Granada Media. ■

**"ITC Publishes Revisions to Rules on Advertising Sales Arrangements", Press Release 25/01, of 17 May 2001, available at:**
**http://www.itc.org.uk/news/news_releases/show_release.asp?article_id=489**
**"Revisions to ITC Rules Regarding Advertising Sales Arrangements", available at: http://www.itc.org.uk/documents/upl_346.doc**
**"Results of the ITC's Consultation on Advertising Sales Arrangements and Share Deals", available at: http://www.itc.org.uk/documents/upl_345.doc**

## GB – Independent Review Clears BBC's Policies on Unfair Trading

**Tony Prosser**
*School of Law University of Glasgow*

The BBC is financed by a licence fee, a form of special levy on all owners of television sets. However, it has also recently become heavily involved in commercial activities, for example joint ventures with private-sector companies. Considerable concern has been expressed by competitors that it is able to distort competition through using public funds to support activities in the commercial marketplace. To meet this criticism, the BBC has developed a Fair Trading Commitment and detailed Commercial Policy Guidelines. Nevertheless, the 1999 review of the future funding of the BBC (see IRIS 1999-8: 11) recommended that these policies be reviewed, and in December 2000, the Secretary of State for Culture, Media and Sport and the BBC Governors asked Richard Whish, an eminent competition lawyer, to undertake the review.

The Whish Report concluded that the Fair Trading Commitment and Guidelines are appropriate to ensure that the BBC does not distort competition in commercial markets. It noted that "in my view the fair trading policies of the BBC compare favourably with those of other undertakings. Indeed, I am not aware of any organisation that is subject to as much scrutiny – internally and externally – to ensure compliance with Competition Law" (section 6.1). The policies are consistent with both UK and EU competition law. No changes are needed in the key principles, although some detailed textual amendments and clarifications were suggested. However, the Report does stress that it was essentially a paper exercise concerned with the rules rather than actual compliance with them in practice or the details of individual complaints by competitors, both of which were outside Professor Whish's terms of reference. ■

**Richard Whish, 'Review of the BBC's Fair Trading Commitment and Commercial Policy Guidelines', for the Department for Culture, Media and Sport, April 2001, available at:**
**http://www.bbc.co.uk/info/bbc/pdf/BBCFairTradingReport6APR2001.pdf**
**For background, see BBC News Release, 'BBC's fair trading practices get seal of approval', 8 May 2001: http://www.bbc.co.uk/info/news/news323.htm**
**For the Commercial Policy Guidelines see:**
**http://www.bbc.co.uk/info/commercial/index.shtml**

## HR – Investigations into Croatian Media Magnate End

**Kresimir Macan**
*HRT*

The founder and co-owner of the biggest Croatian media company Europapress Holding (EPH) was cleared of all charges against him and his supposed partners which led to investigations in December 2000.

On 4 December 2000 the first issue of the new daily *Republika* carried a cover page article on an alleged partnership between him and other media magnates with facsimiles of a contract dated 17 September 1997. The aim of the contract among the – at that time – 100% owner of EPH, the owner of daily *Slobodna Dalmacija* and of *Tisak* newspaper distribution and the owner of local Zagreb TV – OTV was to establish a media monopoly under the political patronage of the former ruling party in the fields of printed media, radio and television, which included the licence for the first private national TV concession. On 29 March 2001 *Izvanraspravno vijeće županijskog suda u Zagrebu* (Grand Jury of Zagreb's County Court) rejected all criminal charges of plotting to take complete control of the country's media as unfounded. ■

**Croatian News Agency, 29 March 2001**

## IE – Hoax Call to Radio Show

**Marie McGonagle**
*Faculty of Law National University of Ireland, Galway*

A man who made a hoax telephone call to a national radio show on 31 August 2000 was pursued under post office legislation, rather than broadcasting legislation. Irish broadcasting legislation contains numerous provisions concerned with programme content but is aimed at the obligations and responsibilities of broadcasters rather than individual callers.

The man telephoned an RTE (the national public service broadcaster) radio chat show, claiming to be the well-known captain of the Galway county hurling team and to be representing his own views and those of the team members. Hurling is a popular Gaelic game, like hockey, which is played by men. He proceeded to make disparaging remarks about women involved in Gaelic games, especially camogie, which is a game like hockey, played by women. He suggested they should stick to tennis and golf. Irate callers who heard the programme telephoned the hurling team captain's place of work and members of his family. The next day, RTE apologised on air for any hurt caused to the team captain and his family. The prankster himself also went on local radio the next day to apologise.

However, he was charged with making a telephone call, which he knew to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to others, contrary to Section 13(1)(b) of the Post Office (Amendment) Act 1951. Section 13(1) of the 1951 Act provided for a penalty not exceeding IEP 10, or to imprisonment for a term not exceeding one month, or to both the fine and imprisonment. That penalty was increased by Section 4(1)(e) of the Postal and Telecommunications Services Act, 1983 to a fine not exceeding IEP 800 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and imprisonment. On 25 April 2001 at Galway District Court the man was fined IEP 100, along with IEP 100 legal costs, and was ordered to make a contribution of IEP 250 to the Galway camogie team. ■

**The case is reported in an article entitled "Man fined for impersonation" in "The Irish Times" on 26 April 2001, available at:
http://www.ireland.com/newspaper/ireland/2001/0426/courts3.htm**

## IT – Public Consultation on DTT

**Maja Cappello**
*Autorità per le Garanzie nelle Comunicazioni*

From 11 April to 8 May 2001, the *Autorità per le garanzie nelle comunicazioni* (Italian Communications Authority) conducted a public consultation on the regulation concerning the licensing of digital terrestrial radio and television broadcasting. Pursuant to article 2*bis*, para. 7, of Law No. 66/2001 (*Conversione in legge, con modificazioni, del decreto-legge 23 gennaio 2001, n. 5, recante disposizioni urgenti per il differimento di termini in materia di trasmissioni radiotelevisive analogiche e digitali, nonché per il risanamento di impianti radiotelevisivi*, *Legge* of 20 March 2001, no. 66, in the *Gazzetta Ufficiale* (Official Journal) of 24 March 2001, no. 70; see IRIS 2001-4: 9), the regulation has to be adopted by the Authority by 30 June 2001.

The document for the consultation asks the public service broadcaster, associations of commercial broadcasters, parties intending to apply for a DTT licence, consumers' associations and other interest groups to provide comments on the following issues: 1) distinctions between content providers and digital radio and television broadcasting service providers; 2) provisions aiming at the sharing of plants for digital transmissions; 3) definitions of the duties of operators as regards the principles of pluralism, transparency, competition and non-discrimination; 4) technical, commercial and regulatory consequences of the new obligations introduced by Law No. 66/2001; 5) procedures and deadlines for the issue of licences and authorisations; 6) interim provisions concerning the transition from analog to digital transmissions; 7) opportunities for specific provisions concerning digital terrestrial radio broadcasting and conditional access services.

The follow-up to the consultation will be published on the website of the Authority. ■

***Delibera* of 11 April 2001*, n. 170/01/CONS, Consultazione pubblica concernente regolamento relativo al rilascio delle licenze ed autorizzazioni per la diffusione di trasmissione radiotelevisive in tecnica digitale* (public consultation on the regulation concerning the licensing of digital terrestrial radio and television broadcasting), available at:
http://www.agcom.it/provv/d_170_01_CONS.htm**

**IT**

## MT – Use of Maltese Language in Broadcast Media

On 16 April, the Advisory Committee on Quality and Ethics in Broadcasting of the Malta Broadcasting Authority published a document entitled: "Consultative Document on the Use of the Maltese Language in the Broadcasting Media". Concerned by the challenge posed by globalisation to a language community as small as the

Maltese one, this document is intended to prepare the ground for a wider debate in Malta on the use of language in broadcasting.

The document states that previously, "the Maltese language in general was faced by fewer challenges and threats than today as is the case with the haphazard importation of foreign words and use of English words together with Maltese words in the same sentence". The irony of this, according to the Broadcasting Authority, is that "the more the threat to the Maltese language has grown, the less broadcasting remained a means for its protection and promotion". In its analysis of the reasons, the Authority cites the growing number of persons taking part in broadcasting, while pointing out that it does not wish to attack pluralism. Instead, it appeals to those carrying out broadcasting functions to assume the responsibility which this role brings along. There are plans to consult with other competent bodies to establish well-defined criteria in order to safeguard the Maltese language in the broadcasting sector.

The document contains a list of problems which are considered to be causes for concern. In addition to its criticism of the incorrect use of the Maltese language, the document notes, *inter alia*, the "bad use of idioms and literal translation of foreign idioms", the "mixture of Maltese and English (or words originating from other languages) in the same sentence" and the "literal translation of foreign sentences, structures and reports". Anyone wishing to make comments or proposals on the subject is invited to write to the Chief Executive of the Broadcasting Authority by 31 May 2001.

The Consultative Document is a further contribution to the language debate in Malta, a subject closely connected with the country's colonial past and struggle for independence. Malta's population has long been divided over the question of which language should prevail. The current population of Malta stands at around 380,000. More than twice that number of Maltese live abroad, mainly in Canada and Australia. Maltese communities abroad have preserved Maltese as their common language.

Section 5 of the Constitution states that the Maltese language is the National language of Malta. However, Maltese and English are the official languages for use by the Administration. Maltese is the language of the courts.

Since its independence and the subsequent withdrawal of the British army, formerly the country's main employer, Malta has undertaken significant efforts to attract tourism and foreign investment. The two decades that followed independence have also seen a strong increase in the use of Maltese. Many feel that this has been to the detriment of English. Amid fears that Maltese citizens would be facing more obstacles in their careers at home and abroad, much of the general language debate has focused on the perceived deterioration of English in Malta. The process the Broadcasting Authority wishes to set in motion may also help to add a new dimension to the general language debate. ■

**Klaus J. Schmitz**
*General Counsel Seifert mtm Systems (Malta) Ltd.*

**Consultative Document on the Use of the Maltese Language in the Broadcasting Media, 16 April 2001, available at: http://www.ba-malta.org**

**EN-MT**

## PT – Government Opens Bidding Process for Digital Terrestrial Television

On 7 April 2001, the Portuguese Government opened the bidding process for a digital terrestrial television platform. The regulation for the public bidding was published in *Diário da República* (Official Journal of Portugal). According to this regulation, applications may be submitted to the *Instituto das Comunicações de Portugal* (the Portuguese communications regulatory body) until 15 June 2001. The proposals shall be open, heard in public and evaluated by a special commission appointed by the Government. The result of the bidding process will be announced by 6 August 2001. The opening of the bidding process has the objective of awarding one national licence for the establishment and exploitation of a digital terrestrial television platform for 15 years. The licence awarded to the successful applicant may be renewable. ■

**Helena Sousa**
*Departamento de Ciências da Comunicação Universidade do Minho*

***Aviso nº 5520-A/2001* (regulation for the public bidding of a digital terrestrial television platform), *Diário da República, nº 83, II série, Suplemento de 7 de Abril 2001*, available at: http://www.icp.pt/legispt/lei.asp?item=316**

**PT**

## PT – High Authority for the Media Takes Stand on Reality Shows

On 16 May 2001, following a highly controversial episode in a reality show, the *Alta Autoridade para a Comunicação Social* (the High Authority for the Media) decided to take a stand on the issue. On 15 May 2001, during prime time, the private terrestrial channel *Sociedade Independente de Comunicação* (*SIC*) broadcast an emotional row between a contestant in *Bar da TV* (a "Big Brother" type of programme) and her parents. Shocked by erotic behaviour in *Bar da TV*, the parents of a female contestant, Margarida, asked the production team to let them talk to their daughter. The live broadcast of a tearful and dramatic confrontation between Margarida, who wanted to stay in the programme, and her parents, who were determined to take her home, caused consternation in the country. Politicians from all parties, the media and citizens raised their objections to what was perceived as a gross violation of human privacy and dignity.

The day after the live broadcast, the High Authority issued a recommendation stating that *SIC* had infringed in a grave way ethical/legal parameters and fundamental rights and values. The High Authority recommended immediate compliance with the Television Law (Law 31-A/98 of 14 July). Six days after issuing the recommendation, the High Authority determined that both *SIC* (which broadcast *Bar da TV*) and the other terrestrial private channel, *Televisão Independente de Comunicação* (the broadcaster of "Big Brother"), should be fined. According to the High Authority, *TVI* should pay a financial penalty for broadcasting explicit sex before 10 pm. *SIC*, on the other hand, should be fined due to the infringement of article 21 number 1 and 2 of the Televi-

**Helena Sousa**
*Departamento de Ciências da Comunicação Universidade do Minho*

sion Law. Number 1 says that it is not allowed any transmission that violates fundamental rights, liberties and guarantees, that infringes human dignity or incentivates the practice of crimes; number 2 states that broadcasts that might have a negative influence in the development of children and young people's personality or might have a negative influence in vulnerable audiences, namely due to the exhibition of shocking or violent images, should be precceded by a clear advertence, should have a permanent adequate symbol (small ball on the up right corner), and should only take place after 10 pm. Furthermore, the High Authority has asked the State Prosecutor to examine whether crimes were committed during the broadcast of the family row between Margarida and her parents, and to act accordingly. ■

***Comunicado da Alta Autoridade para a Comunicação Social de 16 de Maio de 2001*** **(Statement of the High Authority for the Media of 16 May 2001) and** ***Comunicado da Alta Autoridade para a Comunicação Social de 22 de Maio de 2001*** **(Statement of the High Authority for the Media of 22 May 2001), available at: http://www.aacs.pt/novidades.htm**

**PT**

## TR – Regulation of Analog and Digital Satellite Broadcasters

**Şebnem Bilget**
*Radio & Television Supreme Council Head of International Relations Department*

The Directive on Satellite Broadcasting Licences and their authorisation prepared by the Radio and Television Supreme Council (RTÜK) was published on 29 March 2001.

The objective of this Directive is to determine the principles and procedures in relation to satellite broadcasting licensing and its authorisation by RTÜK. The Directive aims at determining the duties and responsibilities of the radio and television enterprises applying for a satellite broadcasting licence and authorisation to provide broadcasting services directly via satellite transmission to the public, and also the duties and responsibilities of satellite platform operators and satellite operators providing the transmission via satellite.

The application forms have been prepared by RTÜK and – following a general announcement – applications will be accepted. The licence and therefore the authorisation period are limited to five years and the directive provides for the possibility of revoking licences that have been granted if certain conditions are not fulfilled. ■

**Official Gazette of 29 March 2001, no. 24357**

**TR**

## YU – Media Legislation Reform in June

**Miloš Živković**
*Assistant Professor, University of Belgrade School of Law Živković & Samardžić Law Offices*

Drafting new media legislation for Yugoslavia and Serbia, initiated immediately after October 2000 political changes (see IRIS 2001-3: 13), has entered the last stage. A local expert group, formed by the Media Centre, prominent NGO from Belgrade, has finished its work, thus producing two drafts – Draft Law on Broadcasting of Serbia and Draft Law on Freedom of Information.

The group has already received aid from international organizations, such as the Council of Europe, OSCE, UNESCO and Article 19. International aid to local experts was agreed on 28 March 2001, after a Joint initiative between European Union and the Council of Europe in the Media Field in Serbia was adopted.

International aid is divided into two segments – broadcasting and general media legislation. As for broadcasting, following the Joint initiative, the above-mentioned organizations have submitted their analysis and comments to the Draft Law on Broadcasting at a meeting held in Belgrade in late April 2001. Subsequently, that Draft has been modified and altered into the new version, which was finished in mid May. A conference on the final Draft has been scheduled for mid June, and all of the involved international organizations were invited to submit their comments by the conference. Since the Federal Ministry of Telecommunications (FMT) has formed its own expert group for new broadcasting law, aiming primarily to achieve co-ordination between the new telecommunications legislation and the broadcasting law, it may be expected that, following the scheduled conference, the FMT expert group shall prepare the final version of the Draft and submit it to the Government and Assembly of Serbia for adoption.

As for general media legislation, the situation is a bit more complicated. Namely, apart from the mentioned Draft Law on Freedom of Information, there is an another text – revised Model Law on Public Information from 1998. The expert group of the Media Centre has been discussing both proposed texts, but failed to reach an unanimous decision on which text to adopt as its proposal. ■

**Joint Initiative between the European Union and the Council of Europe to adapt the legal framework in the media field in Serbia. Available at: http://www.humanrights.coe.int/media/atcm/2001/FRY%20Serbia/Joint%20Initiative%20Serbia.dot**

**EN**

# NEW MEDIA / TECHNOLOGIES

## DE – New Legal Framework for Frequency Usage

**Peter Strothmann**
*Institute of European Media Law (EMR)*

On 30 March 2001, the *Bundesrat* (Federal Council) approved three Federal Government ordinances, which establish the legal framework proposed in Sections 44 to 49 of the *Telekommunikationsgesetz* (Telecommunications Act - *TKG*). These are the *Frequenzbereichszuweisungsplanverordnung* (Frequency Band Allocation Plan Ordinance - *FreqBZPVO*), based on Section 45.1 of the *TKG*, the *Frequenznutzungsplanaufstellungsverordnung* (Ordinance on the Procedure for Drawing Up the Frequency Usage Plan - *FreqNPAVO,* based on Section 46.3 of the *TKG*) and the *Frequenzzuteilungsverordnung* (Frequency Assignment Ordinance - *FreqZutVO,* based on Section 47.4 of the *TKG*).

Both frequency plans lay down conditions of use and lists available frequencies, while the *FreqBZPVO* also brings national conditions into line with international provisions on frequency band usage. It also regulates frequency usage "in and along conductors" for the very first time, opening the way for applications such as telecommunications, media services and teleservices to be transmitted via electricity supply networks. It will also be possible to provide such services alongside TV programmes using national and international frequencies normally used for broadcasting.

The *FreqNPAVO* lays down the requirements of a frequency usage plan, which contains further information on the frequency band allocation plan and its structure. In this respect, it ensures that radio applications will not experience interference from frequency usages in cable installations. The use of frequencies in and along conductors is therefore permitted, provided none of the frequency usages mentioned in the plan is adversely affected and as long as no other frequency usages require protection from interference.

Frequency allocations and their conditions of use are laid down in accordance with the *FreqZutVO*. ■

***Frequenznutzungsplanaufstellungsverordnung*** **(Ordinance on the Procedure for Drawing Up the Frequency Usage Plan -** ***FreqNPAVO*****),** ***Frequenzbereichszuweisungsplanverordnung*** **(Frequency Band Allocation Plan Ordinance -** ***FreqBZPVO*****),** ***Frequenzzuteilungsverordnung*** **(Frequency Assignment Ordinance -** ***FreqZutVO*****)**

**DE**

## DE – Bill on Protection of Conditional Access Services

**Alexander Scheuer**
*Institute of European Media Law (EMR)*

On 4 May 2001, the Federal Ministry for Business and Technology tabled a Bill designed to transpose Directive 98/84/EC of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access.

The Bill aims to protect services that provide access to restricted services on a fee-paying basis against infringing activities carried out for commercial gain. Conditional access services in the sense of Section 2 of the Bill are broadcasting, teleservices and media services provided against remuneration and on the basis of conditional access. They include technical measures or devices that enable such conditional access services to be used legally. Illicit devices are technical procedures or devices that give unauthorised access. Under Section 3, the manufacture, import and distribution of such illicit devices are all banned, as are the possession, maintenance and replacement of such devices and the use of commercial communications to promote their distribution, insofar as these activities are carried out for commercial purposes. Persons who breach these provisions will be fined. ■

***Entwurf eines Gesetzes zum Schutz von Zugangskontrolldiensten vom 4. Mai 2001 (Bill on Protection of Conditional Access Services of 4 May 2001)***

**DE**

## DE – *DLM* Policy Document on German Cable Industry Restructuring

**Dr. Carmen Palzer**
*Institute of European Media Law (EMR)*

On 10 April, the *Gemeinsame Stelle Digitaler Zugang* (Joint Digital Access Board) of the *Direktorenkonferenz der Landesmedienanstalten* (Congress of *Land* Media Authority Directors - *DLM*) adopted a policy document on the sale of the level 3 cable networks by the *Deutsche Telekom Aktiengesellschaft* (German telecommunications company - *DTAG*). In the document, the *DLM* assesses the prospects and risks connected with the restructuring of the cable market and discusses the cable networks' position at the crossroads of media, telecommunications and cartel law. The *DLM* then announces practical measures it intends to take in order to make the most of the opportunities and avoid running unnecessary risks.

In general terms, the *DLM* believes that cable can become the ideal gateway to the Information Society. The sale of the cable networks would be a way of overcoming the current obstacles to the development of cable. It would also mean that a structural basis could be created for the expansion of cable transmission capacity and for the installation of a return channel [I have not come across the term "return channel" before; if it is a new development, it might be interesting to have a brief explanation of it], thus opening the door to new types of service. The sell-off would also, however, be accompanied by horizontal and vertical concentration. Germany's networks would be dominated by no more than three American-run global companies, which would own major shareholdings in TV companies as well as operating the cable networks. This might impede or hinder open, equal access to the cable networks and jeopardise diversity of opinion. Access to the "opinion market" should remain open, while fair journalistic and economic competition should be guaranteed. It is therefore important to develop a framework in which these needs continue to be met despite the high level of market concentration, while at the same time maintaining an incentive to invest. Imposing a code of conduct alone is simply not enough; structural safeguards for diversity and competition are more important. In this connection, the conditions being sought include open technical platforms for the hard- and software for set top boxes, prospects for the development of European content, consumer choice (ie no exclusive customer ties) and conditions and fees which guarantee access for smaller and regional operators. Alongside the provisions of the *Rundfunkstaatsvertrag* (Inter-State Agreement on Broadcasting) and telecommunications law, there would be two main avenues for developing structures designed to guarantee diversity and competition: the cartel control procedure that would be triggered by the sale and a dialogue between the cable companies, programme providers and the *Land* media authorities. ■

**Policy document of the *DLM's Gemeinsame Stelle Digitaler Zugang* (Joint Digital Access Board), available at http://www.alm.de/index2.htm**

**DE**

## DE – "Unbundled Access" to the Local Loop

**Dr Carmen Palzer**
*Institute of European Media Law (EMR)*

Following two rulings announced by the *Bundesverwaltungsgericht* (Federal Administrative Court - *BVerwG*) on 25 April 2001, *Deutsche Telekom AG (DTAG)* is now obliged to provide its competitors in the market for telecommunications services for the public with "unbundled access" to the local loop. *DTAG* must therefore ensure that its competitors have access to the copper or fibreglass cable without bundling it with other services.

In both appeal hearings, the Court examined the legitimacy of the intervention by the then Federal Ministry for Post and Telecommunications (*BMPT*) which, as the regulatory authority for post and telecommunications (*RegTP*) until 31 December 1997 (see Section 98.1 of the *Telekommunikationsgesetz* (Telecommunications Act - *TKG*)), took action against *DTAG* as part of its duty to monitor abuses, in accordance with Section 33.2 (in connection with Section 33.1) of the Act. *DTAG* had offered its competitors access to the local loop only in conjunction with transmission hardware that modified data throughput by channelling data or restricting capacity. Its competitors, on the other hand, had asked *DTAG* to provide access to the cable without forcing them to use additional transmission equipment. The *BMPT* had therefore requested that *DTAG* refrain from this abuse of its dominant market position and that it should grant its competitors' request for unbundled access. *DTAG* had appealed against these decisions and now, through the Administrative Court rulings, the *BMPT's* actions have finally been vindicated. The Court confirmed that *DTAG* was dominant in the important markets for telecommunications services for the public and was the only company to own a comprehensive subscriber network covering the whole of Germany. On account of its dominant position, it was obliged to guarantee its competitors access to the local loop so that they were free to use it for commercial purposes to provide telecommunications services for the public under the same conditions that applied to *DTAG* itself (see Sections 33.1, 35.1, 35.2 and 35.5 of the Act in conjunction with Article 2 of the *Verordnung über besondere Netzzugänge* (Decree on Special Network Access - *NVZ*)). ■

***Bundesverwaltungsgericht* (Federal Administrative Court - *BVerwG*) press release, available at:**
**http://www.bverwg.de/presse/2001/pr-2001-16.htm**

**DE**

## IE – Timescale for Deflector Licensing Scheme Extended

**Candelaria van Strien-Reney,**
*Faculty of Law National University of Ireland, Galway*

In May 2001, the Director of Telecommunications Regulation issued new regulations that provide for the extension of deflector licences beyond their original expiry date of 31 December 2001. The licences had been issued in April 2000, as a short-term measure (see IRIS 1997-7: 9 and IRIS 2000-5: 15), while preparations were being made for the introduction of Digital Terrestrial Television (DTT). At present, there are 31 deflector licences in force.

In many rural parts of Ireland deflector services provide the only means of access to multichannel television services broadcast from the U.K. and prior to April 2000, there had been a long-running problem of unlicensed deflector systems operating in Ireland. However, the changeover to DTT, which was to have begun in 2000/2001, has taken longer than anticipated. Accordingly, the Director has permitted the extension of these licences until 31 December 2003 at the latest. This will be subject to the non-availability of DTT in the area served by the relevant deflector licensee. Once DTT is available the deflector licensing scheme will come to an end, as the spectrum used by the deflectors will be needed for DTT. ■

**Press Release, 4 May 2001: "Regulator Extends Timescale for Deflector Licensing Scheme", available at: http://www.odtr.ie/docs/pres040501a.doc**
**Wireless Telegraphy (Carrigaline UHF Television Programme Retransmission) (Amendment) Regulations, 2001 (Statutory Instrument No. 189 of 2001), available at: http://www.odtr.ie/docs/si189of2001.doc**
**Wireless Telegraphy (UHF Television Programme Retransmission) (Amendment) Regulations, 2001 (Statutory Instrument No. 190 of 2001), available at: http://www.odtr.ie/docs/si190of2001.doc**

## IE – Cable/MMDS Licensees Must Implement Code of Practice

**Candelaria van Strien-Reney,**
*Faculty of Law National University of Ireland, Galway*

The Director of Telecommunications Regulation has issued a Decision Notice requiring Cable/MMDS (Microwave Multipoint Distribution System) licensees to implement a code of practice for handling complaints. She has also set out minimum standards for such codes. The Decision, which was issued on 6 April 2001, follows a very large increase in the number of complaints received by the Director concerning, *inter alia*, customer service, quality and billing. The new codes should help consumers to understand what level of service to expect and enable them to insist upon their rights.

Following consultation with the industry, the Director has specified that certain issues must be dealt with in the codes. These include:

- Providing contact details;
- Acknowledging complaints and informing customers of progress regarding their complaints;
- Specifying procedures used to resolve complaints;
- Addressing complaints within stated timescales, which depend on the type of complaint. ■

**ODTR 00/22 Codes of Practice by Cable and MMDS operators for handling consumer complaints. Decision Notice and Response to Consultation, available at: http://www.odtr.ie/docs/pres060401.doc**

## IT – New Regulation Governing Satellite Service Concessions

**Marina Benassi**
*Van der Steenhoven Advocaten Attorneys at Law Amsterdam*

The Autorità per le Garanzie nelle Comunicazioni (Italian Communications Authority) has, after careful deliberation, and as published in the Gazzetta Ufficiale della Repubblica (Official Journal of Italy) of 3 May 2001, adopted a list of all the official dispositions aiming to regulate the concession of authorisation and licences for satellite services. The aim of the document is to set out a whole list of obligations and conditions which have to be met in order to apply for a satellite service concession. Among these is the obligation on operators to respect all impositions and limits set by the Italian government for the protection of public health and ecology. The new regulation explicitly provides a new set of rules in order to limit the waiting-time for obtaining a licence. Based on the new regulation, interested parties will obtain such a licence within four weeks of the date of application. ■

***Garante delle Comunicazioni Deliberazione 131/01/CONS, 21/03/2001, Gazzetta Ufficiale della Repubblica del 3 maggio 2001* (Official Journal of Italy of 3 May 2001), available at: www.unipa.it/~cdl/guriall/guri2001/mag01/1sersat.htm**

**IT**

## NL – Minister Proposes to Allow Advertising on Dutch Education Network

**Marieke Berghuis**
*Institute for Information Law (IViR) University of Amsterdam*

*Kennisnet* is a Dutch education network with the aim of providing accessible electronic educational content and services for more than three million users, ranging from primary school pupils to adult education students. The Dutch Minister of Education, Culture and Science, Loek Hermans, recently sent a letter to the Dutch Parliament stating his intention to change the State-run *Kennisnet*-organisation into an autonomous corporation receiving a subsidy from the Government.

The Minister is of the view that it would be better for the further development of the portalsite and accompanying services to take place independently of the Government. Arguments for this include the Minister's reservations about being in a position whereby he would be able to influence the content of education by determining the content of the portalsite. Continued responsibility for *Kennisnet* could leave him in such a position.

The Minister published a *handvest* (charter) entitled *Kennisnet* which, *inter alia*, allows limited-scale advertising on *Kennisnet*. He believes that the participation of business is necessary in order to make the educational content both good and affordable. A majority of the Parliament has already expressed its opposition to advertising on *Kennisnet*. By setting rules to limit advertising, the Minister aims to secure the acceptance of his proposals. Although the paragraph in the charter dealing with advertising (para. 6) opens with a statement that the *Kennisnet*-organisation will strive to keep the network free from commercial expression insofar as possible, advertising will be allowed on *Kennisnet* to some extent. Teaching material, however, is not allowed to contain advertising. In other places, for example on the news-site, a maximum of 5% per page may consist of commercial expressions. Advertisements for weapons, drugs, cigarettes, alcohol, gambling, sex or medicines are excluded from the network. The Minister will defend the draft legislation in Parliament on 7 June. ■

**"Kennisnet verzelfstandigt", Press Release of the Ministry of Education, Culture and Science of 23 May 2001; *Tweede Kamerbrief* (Letter to Parliament from the Minister of Education, Culture and Science) of 23 May 2001; the *Handvest* (Charter) and the *Statuten van de stichting in oprichting* (Statute of the corporation in formation) are all available at: http://ocw.netspanning.nl/persbericht.jsp?pageID=68**
***Kennisnet* may be accessed at: http://www.kennisnet.nl**

**NL**

## RELATED FIELDS OF LAW

### CH – Federal Tribunal Rejects Time Warner's Claims in the Friends Case

Time Warner Entertainment Company L.P. (referred to here as Time Warner) produces the famous television series "Friends", some sequences of which take place in a fictional café called "Central Perk". Time Warner has owned the name "Central Perk" in the United States since 1995 for "class 25" products (clothing, shoes, hats), and registered the name "Friends" in Switzerland in 1996 for products in the same category. The company Gengenie S.A. runs a café in Geneva called "Central Perk". In November 1998, the company's sole director registered the name "Central Perk where we're your Friends" in Switzerland. The courts in Geneva rejected Time Warner's application for provisional measures to prevent the use of the terms "Central Perk" and "Friends". Time Warner then appealed to the Swiss Federal Tribunal.

In a decision delivered on 19 February 2001, the Federal Tribunal found that the activity carried out by Time Warner, namely the production and broadcasting of a television series, could not be held to be in competition with the operation of an ordinary company. The *loi fédérale sur la concurrence déloyale* (Federal Act on Unfair Competition - *LCD*) requires the disputed act, when considered objectively, to be such as to give an advantage or disadvantage to an undertaking in its efforts to acquire clients or increase or reduce its share of the market. Thus the act has to be directed against the normal play of competition and be objectively such as to exert an influence on the market. The Federal Tribunal held that this was not the case here, since the acts carried out by the defendant party were not such as to influence the situation of economic competition between the two parties.

The Federal Court noted, moreover, that the names in question were not identical. Time Warner could not oppose the use of the disputed name unless it comprised similar signs and was intended for use with identical or similar products or services, and was likely to give rise to confusion. However, the word "Friends" in the disputed name was only of secondary importance and scarcely distinctive, as the name placed more emphasis on the term "Central Perk". The two names were therefore sufficiently distinct to exclude the risk of confusion. Furthermore, they did not refer to the same products and services. Lastly, the Federal Tribunal held that the American brand-name of "Central Perk" was not sufficiently well-known in Switzerland on the date of registering the defendant's brand-name, to enable Time Warner to claim any prior right despite the absence of registration of its brand-name in Switzerland. ■

**Patrice Aubry**
*Lawyer (Geneva)*

***Arrêt du Tribunal fédéral suisse du 19 février 2001 N° 4P.291/2000* (Judgment of the Swiss Federal Tribunal of 19 February 2001, no. 4P.291/2000), available at the following address: http://wwwsrv.bger.ch/cgi-bin/AZA/ConvertDocCGI_AZA?ds=AZA_pull&d=-19.02.2001_4P.291%2f2000&pa=1~4p+291+2000@73~&lang=de**

**FR**

### CZ – Protection of Information Source

In March 2001, the Public Prosecutor's Office abandoned its criminal action against two daily newspaper journalists (under Czech criminal law, the public prosecutor can decide, after an investigation, whether a case should be brought before a court or abandoned).

The journalists had reported on an alleged attempt to discredit a popular government politician, which was said to have come from within her own party. The report had been the subject of libel proceedings. Both journalists had been called as witnesses and had refused, under the terms of the Press Act, to divulge the source of their information. As a result of their silence, they were both charged with aiding and abetting a criminal, although the actual libel case was subsequently dropped.

In October 2000, the President of the Czech Republic had exercised his right to issue a pardon at that stage of the proceedings. However, both journalists refused to accept the pardon and insisted that the case go ahead.

The legal background to this case is the new Czech Press Act (see IRIS 2000-3:15), which brought in new standards for the protection of information sources relating to news published in newspapers and magazines. The same protection also applies to broadcasting. Under the Act, persons involved in gathering or processing journalistic information are allowed to withhold from a court or other authority information that might reveal the identity of a source. However, this does not apply to the obligations set out in a special Act, under which criminals may not be aided and abetted and offences must be prevented or reported, nor does it apply to the legal obligations that apply during criminal proceedings.

The public prosecutor's decision, however, was based on the view that no crime had been committed, since neither journalist had intended to aid and abet a criminal. Rather, they had merely been seeking to perform their duties as journalists. The public interest in revealing information likely to identify a source had, in this case, not outweighed the overriding importance of freedom of opinion. ■

**Jan Fučík**
*Broadcasting Council of the Czech Republic, Prague*

### FR – Comparative Advertising Indicating Prices Charged by an identifiable Competitor

During an advertising campaign, the company *Cegetel 7* claimed that its long-standing competitor, the company *France Télécom* – the identifiable target of its advertising – was using pricing practices left over from an outdated monopolistic situation that no longer corresponded to reality. *France Télécom* felt that the campaign constituted unfair competition and infringed the regulations on comparative advertising, and had *Cegetel 7* summoned to appear in court to be ordered to put a stop to the disputed advertising, or be fined if it continued. The Court of Appeal in Versailles ordered the defendant company to stop using the disputed advertising. The court of cassation rejected the final appeal brought by the company *Cegetel 7*.

*Cegetel 7* argued that in the case of a comparison involving prices, all that was prohibited was comparative advertising for products, excluding services, where the comparison did not satisfy the legal requirements. In the present case, the disputed advertising campaign on charges applied to telephone calls, ie the prices charged for a service, and could not therefore be considered as comparative advertising.

The court of cassation did not follow the same reasoning. It found that the provisions of Article L. 121-8 of the Consumer Code, covering comparative advertising, did apply to advertising that compared the prices for services offered by an identifiable competitor, which was the case here. The court of appeal was therefore right in sanctioning the disputed advertising; not because it advertised the merits of the competition but because it did not constitute a fair and truthful presentation. The court of cassation therefore decided that this advertising did indeed constitute unlawful comparative advertising. ■

**Mathilde de Rocquigny**
*Légipresse*

***Cour de cassation (chambre commerciale), 27 mars 2001 – Cegetel 7 c/ France Télécom* (Court of cassation (commercial chamber), 27 March 2001 – *Cegetel 7* v. *France Télécom*)**

**FR**

## FR – Copyright in respect of a Producer Dismissed during Filming

Not many cases are taken in the French courts by film producers against their directors. A recent case has determined the rights of all concerned when the contract between them for the production of a film is terminated.

Julien Seri was taken on as a producer by the director Luc Besson, and was subsequently dismissed during filming as his methods of working were considered unsatisfactory. Although he had participated in creating the screenplay and had filmed some of the scenes for the film, he was dismissed and replaced by a different producer. Once this producer had completed the film, and some time before the film was shown in cinemas, Julien Seri attempted to claim rights in respect of the scenes he had shot and to prevent the film from being shown.

**Mathilde de Rocquigny**
*Légipresse*

The Regional Court in Paris rejected Julien Seri's claims on the grounds that he himself had failed to perform the obligations of the contract as screenwriter and producer. As a result of that judgment he brought a case in an urgent matter before the Court of Appeal in Paris and called for the first showing of the film to be postponed. As joint screenwriter, he felt that the final version of the work had not been established by common agreement between all the joint screenwriters and that the work was therefore not complete, which meant that it could not be shown to the public.

The Court of Appeal in Paris did not agree with this line of argument and authorised the film to be shown as planned. According to Article L 121-5 of the *Code de la Propriété Intellectuelle* (Code of Intellectual Property - *CPI*), an audiovisual work is deemed complete when the final version has been established by the director, or "possibly" the joint authors and the producer. The appreciation of the true scope of this provision (and in this case interpretation of the term "possibly") was not in the remit of the judge sitting in urgent matters. Therefore, the right of supervision claimed by Julien Seri was apparently not established. Moreover, the agreement between the second producer and Luc Besson was sufficient to determine the final version of the work, which could then be shown to the public, as the plaintiff had not demonstrated that his work had been distorted. The Court also found that the measure claimed was too vague in terms of a time period and could compromise the exploitation of the film, whereas reparation could be made in respect of the facts of the case once its merits had been heard. The case is still pending. ■

***CTGI Paris, 3ème chambre, 2ème section, 23 mars 2001* (Regional Court of Paris, 3rd chamber, 2nd section, 23 March 2001)**
***Cour d'appel de Paris, 1re chambre, section P, Ordonnance du 3 avril 2001 - Seri et Lyon c/ Leeloo Production et Besson* (Court of Appeal of Paris, 1st chamber, section P, order of 3 April 2001 in the case of Seri and Lyon v. Leeloo Production and Besson)**

**FR**

## FR – Depiction of a Famous Paris Hotel in a Pornographic Film

In a 1999 decision that has since become famous, the Court of Cassation upheld, on the basis of the law of ownership, the possibility for the owner of an item of property to oppose any commercial exploitation of that item, specifically by means of a photograph. A recent case has enabled the Regional Court in Paris to reach a similar decision. A company had produced and directed a pornographic film, distributed on video cassettes, in which a large part of the story took place inside the Paris hotel *Le Crillon*; various parts of the hotel were easily recognisable. The name of the hotel was mentioned on the sleeve of the cassette in its English translation and in the video. An employee of the hotel also appeared in the film. The company that owns the building of the hotel *Le Crillon* had not authorised the representation and the commercial exploitation of the image of the hotel, and therefore had the production company summoned to appear in court in an urgent matter in order to put a stop to the sale of the video cassettes. The employee of the hotel also took part in the proceedings, as he had not authorised the exploitation of his image.

**Mathilde de Rocquigny**
*Légipresse*

Referring to the now famous expression used by the Court of Cassation, the judge sitting in urgent matters found that in application of Article 544 of the Civil Code, which covers the right of ownership, the owner alone has the right to exploit the property he owns in any way. It follows that the commercial exploitation of his property in the form of photographs or films, without the authorisation of the owner, by definition infringes the owner's right of enjoyment in respect of his property. Moreover, each person has the right to oppose the reproduction of his image made without his authorisation. Therefore, the Regional Court in Paris found that the distribution and sale of the film constituted a manifestly unlawful nuisance for both the owner of the hotel and the employee who appeared in the video.

Dealing with this as an urgent matter, the judge had to reconcile the rights of the individual – in this case the right of ownership – with the constitutional principle of freedom of expression. As the bans on distribution and the seizure demanded by the plaintiffs constitute an extremely serious infringement of freedom of expression and artistic creation, they can only be put in place in exceptional cases where the nature of the infringement is such that the judge dealing with the merits of the case could not effect subsequent reparation. The judge did not therefore ban the circulation of the cassettes, but he did order the deletion of the sequences depicting the hotel and those showing the employee, and the notice "At the Hotel Crillon" on the sleeve of the video. ■

***Tribunal de grande instance de Paris, ordonnance de référé, 5 avril 2001, SA du Louvre et SA des Hôtels du concorde c/ Dahan* (Regional Court of Paris, order in an urgent matter, 5 April 2001, SA du Louvre and SA des Hôtels du Concorde v. Dahan)**

**FR**

## FR – Establishment of Higher Council for Literary and Artistic Property

On 11 May 2001, Catherine Tasca, Minister for Culture and Communication, established the *Conseil supérieur de la propriété littéraire et artistique* (Higher Council for Literary and Artistic Property - *CSPLA*). This council has been set up for a six-year period and its position in regard to the minister should mean that it will be a mediation body for matters relating to intellectual property in the context of the development of the information society. Its members represent not only a number of ministries, but also all professionals concerned with the issues raised by the application of literary and artistic copyright law to the digital world – authors, publishers of newspapers, magazines and books, providers of online services, performers, producers of phonograms and audiovisual and cinema works, radio and television

broadcasters, etc – as well as consumers.

The main mission of the *CSPLA* is to pave the way for adapting intellectual property law to the digital age. A number of areas for consideration and work have already been highlighted. The first task of the *CSPLA* will be to look into the allocation of royalties to salaried authors and the companies employing them and to propose solutions without, however, challenging the existing schemes for collective works and commissioned works. Thus it may promote a simplification of the management of royalties and neighbouring rights, particularly by encouraging the collective management companies to join forces in order to create a single organisation.

The *CSPLA* will also be looking at how to determine which recording media should be entitled to receive remuneration for private copying, and in particular will be investigating the copying of digital matter, possibly including fixed images.

Lastly, the *CSPLA* will have the permanent objective of ensuring freedom of access to works by all, while at the same time combating counterfeiting. It will thus have to consider what is at issue and the limits of technical systems for the protection of works.

All these points will also have to be considered in the context of the best way of preparing for the transposition of the directive on copyright and neighbouring rights in the information society. ■

**Charlotte Vier**
*Légipresse*

***Arrêté du 30 avril 2001 portant nomination au Conseil supérieur de la propriété littéraire et artistique* (Decision of 30 April 2001 appointing members of the Higher Council for Literary and Artistic Property)**

**FR**

## IE – Publication of Bill to Incorporate ECHR

In April 2001, the European Convention on Human Rights Bill was published by the Irish Government. The purpose of this piece of draft legislation is to incorporate the European Convention on Human Rights into the national legal order, thereby making rights under the Convention enforceable in the Irish courts. One result of this is that the media, in particular, will benefit from the strengthening of existing constitutional protection for freedom of expression by virtue of the incorporation of Article 10 of the European Convention.

The introduction of the Bill was deemed necessary as Ireland has a dualist legal régime and *Bunreacht na hÉireann* (the Constitution of Ireland), 1937, provides at Article 15.2.1 that the power of making laws for the State is vested exclusively in the *Oireachtas* (Houses of Parliament). The Constitution also states that "no international agreement shall be part of the domestic law of the State save as may be determined by the *Oireachtas*" (Article 29.6).

The Bill will, when enacted, give further effect, subject to the Constitution, to certain provisions of the European Convention and to a selection of Protocols thereto. The provisions in question are Articles 2-14 of the Convention and the relevant Protocols are Nos. 1, 4, 6 and 7. These provisions and Protocols are, in all cases, subject to any derogation the State may enter pursuant to Article 15 of the Convention ("Derogation in time of emergency"). The form of incorporation provided for by the Bill – at the sub-constitutional level - means that in the event of conflict between the provisions of the Constitution and of the Convention, the former would prevail. However, it is expected that in practice, judicial interpretation will seek to harmonise the provisions of both instruments.

Section 2(1) of the Bill states that the courts shall interpret and apply any statutory provision or rule of law "in a manner compatible with the State's obligations under the Convention provisions." This section will apply to any statutory provision or rule of law entering into force after, or already in force at the time of, the Bill's promulgation as law. The Bill also provides that the High Court and the Supreme Court (when exercising its appellate jurisdiction) may make a declaration that a statutory provision or rule of law is incompatible with the State's obligations under the Convention provisions (section 5(1)). However, such a declaration of incompatibility "shall not affect the validity, continuing operation or enforcement of the statutory provision or rule of law in respect of which it is made" (section 5(2)(a)). It will then be a matter for the Government to consider what steps should be taken to remedy the situation.

Although Ireland ratified the Convention in 1953, it is, apart from Armenia and Azerbaijan (which acceded to the Council of Europe on 25 January 2001), the only one of the Council of Europe's 43 Member States which has yet to give domestic effect to the European Convention. In the cases of each of the two newest Member States of the Council, this objective will become a *fait accompli* on the imminent completion of their respective ratification processes. ■

**Tarlach Mc Gonagle**
*Institute for Information Law (IViR) University of Amsterdam*

**The European Convention on Human Rights Bill, 2001, No. 26 of 2001, available at http://www.gov.ie/bills28/bills/2001/2601/default.htm**

## MK – Recommendation for the Manner of Covering Tensions, State of War and other Forms of Armed Conflicts

The Broadcasting Council of the Republic of Macedonia, aiming to assist the electronic media in the implementation of Articles 8 and 31 of the Law on Pursuit of Broadcasting Activity, on its session held on 23 May 2001, has adopted a "Recommendation for the manner of covering tensions, state of war and other forms of armed conflicts". This Recommendation is given with regard to the complex political and security situation and the created tensions in the social relations of the Republic of Macedonia and it is coming from the principles of freedom of expression as under Article 10 of the European Convention for Human Rights, Article 16 of the Constitution of the Republic of Macedonia and provisions of the Law on Pursuit of Broadcasting Activity. The Broadcasting Council while bringing this Recommendation had full respect for the editorial independence and responsibility of the electronic media. The intention of the Council was to prevent the use of all forms of reporting that spread, initiate, incite and justify national and other forms of hatred, intolerance and hostility and create insecurity with the citizens, as well as to prevent the use of programs that call for violent destruction of the constitutional order or incite and call for military aggression. ■

**Andriana Skerlev-Cakar**
*Legal Expert Broadcasting Council of the Republic of Macedonia*

**Recommendation for the manner of covering tensions, state of war and other forms of armed conflicts of 23 May 2001**

**MK**

IRIS LEGAL OBSERVATIONS
OF THE EUROPEAN AUDIOVISUAL OBSERVATORY

## RU – Finance Ministry Reduces Advertising Tax Rate

**Natalie A. Budarina**
*Moscow Media Law and Policy Center*

On 1 March 2001, the Russian Ministry of Finance issued a decree concerning the taxation of advertising.

The new tax schedule provides that the total amount of actual advertising expenses to be included for purposes of taxation in the prime cost of production (production costs, costs of materials and labour, which are not subject to profit taxes) shall not exceed a maximum rate of 7.5 percent; previously the amount was 5 percent.

That means that a company can now spend 50 percent more money on advertising without additional tax.

The Decree came into force on 1 April 2001. ■

***Prikaz Ministerstva Finansov Rossijskoj Federatsii #18 "O vnesenii ismenenij i dopolnenij v Prikaz Ministerstva Finansov Rossijskoj Federatsii ot 15.03.2000 No. 26n 'O normakh i normativakh na predstavitelskie raschodi, raschodi na reclamu i na podgotovku i perepodgotovku kadrov na dogovornoj osnove s uchebnimi zavedenijami, regulirujustchikh razmer otnesenija etikh raschodov na sebstoimost productii (rabot, uslug) dlja tzelej nalogooblogenija i porjadke ich primenenija'* (The Finance Ministry of the Russian Federation, Decree No. 18 On amendments and additions to the Finance Ministry of the Russian Federation Decree No. 26n on the rates and standards, concerning the representative expenses, advertising expenses and raising the level of training expenses on the basis of contracts with educational institutions, regulating the tax schedule of such expenses) of 1 March 2001. Available at http://mingar.park.ru/private/document.asp?no=12022349**

**RU**

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