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Announcement of a Vacancy at the European Audiovisual Observatory

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The holder of the post will be responsible for collecting, organising and processing information on the financing of film and audiovisual production in Europe.

Applicants must be nationals of a Member State of the Council of Europe, be less than 55 years of age, and preferably hold a post-secondary qualification in the audiovisual field.

You can find full information in the official vacancy notice published on the web sites of the European Audiovisual Observatory (http://www.obs.coe.int/about/oea/team/vacancy.html.en) and of the Council of Europe (http://www.coe.int/jobs).

Completed applications must be submitted by 5th April 2002 to the Directorate of Human Resources of the Council of Europe, Strasbourg, France. Quote ref. 27/2002.

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INTERNATIONAL

UNITED NATIONS

General Assembly: Resolution on World Summit on the Information Society

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On 21 December 2001, the General Assembly of the United Nations adopted Resolution A/RES/56/183 that welcomes the organisation of the World Summit on the Information Society (WSIS). The Summit, to be held under the auspices of the International Telecommunications Union (ITU), will focus on bridging the digital divide by promoting development through access to information, knowledge and communications technologies. In the Resolution, the General Assembly *inter alia* encourages governments and all relevant United Nations (UN) bodies to participate actively in the preparatory process of the Summit and to be represented at the highest possible level at the Summit itself. It also invites the international community to make voluntary contributions in order to support the preparations for, and the actual holding of, the Summit.

The adoption of this Resolution is an important step towards the successful establishment of the WSIS. After an initiative taken by the Plenipotentiary Conference of the ITU in 1998, the ITU Council decided on 28 July 2000 to proceed with the organisation of the World Summit on the Information Society. Under the patronage of the Secretary General of the UN, Kofi Annan, the Summit will be held partly in Geneva, from 10 to 12 December 2003, and partly in Tunisia, in 2005. ■

Resolution A/RES/56/183 on the World Summit on the Information Society, available at:
http://www.itu.int/newsroom/press_releases/2002/UNGA_res_56_183.html

EN

World Anti-Racism Conference: Focus on Media

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Although the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance convened under the auspices of the United Nations (UN) in Durban, South Africa, took place from 31 August to 8 September 2001, it was only recently that the final texts of the Declaration and Programme of Action to emerge from the Conference were made available to the public.

Both the Declaration and the Programme of Action contain provisions that have a direct bearing on media policy and practice. Great emphasis is placed on the need to adhere to the provisions of existing international instruments dealing with racism and related issues. The Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination are singled out in this regard. Two guiding principles of the latter are that the dissemination of all ideas based on racial superiority or hatred be declared an offence punishable by law, and that States spare no efforts in tackling organisations and individuals responsible for the dissemination of such ideas.

While the stigmatisation and negative stereotyping of vulnerable individuals or groups of individuals are criticised in the Declaration, it is simultaneously stressed that a possible antidote to such trends could lie in the robust exercise of the corrective powers of the media. The promotion of multiculturalism by the media is a crucial ingredient of such an antidote. These anxieties about the use and misuse of the media are equally applicable, if not more so, to new technologies and in particular, the Internet. This is also borne out in the Declaration. The above-mentioned issues are dealt with most extensively in paras. 86-94 of the Declaration.

The Programme of Action, for its part, revisits these themes, but in a manner that is mindful of their practical application. To this end, it calls for the promotion of voluntary ethical codes of conduct, self-regulatory mechanisms and policies and practices by all sectors and levels of the media in order to advance the struggle against racism. It also advocates, within the parameters of international and regional standards on freedom of expression, greater (and where applicable, concerted) State action to counter racism in the media. The dissemination of racist speech and the perpetration of similar racist acts over the Internet and via other forms of new information and communications technologies should merit particular attention. A list of suggested practical approaches to relevant problems is then enumerated. All of these issues are dealt with primarily in paras. 140-147 of the Programme of Action.

The Declaration and Programme of Action are firmly rooted in the international tradition of human rights protection, as shaped by the existing corpus of relevant UN instruments. Following its preambular section, the Declaration offers its statement of intent and an exploration of the various forms, sources and causes of racism. Attention then turns to the victims of racism; followed by an array of prevention and protection measures, in particular, education. Remedies and redress come next, before a final section on strategies "to achieve full and effective equality…" The Programme of Action represents an attempt to lend a "practical and workable" wording to the objectives of the Declaration. ■

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Declaration and Programme of Action, available at:
http://www.unhchr.ch/html/racism/Durban.htm (EN)
http://www.unhchr.ch/pdf/Durban_fr.pdf (FR)

EN-FR

NATIONAL

BROADCASTING

BG – Act on Radio and Television Amended

The amendments in the *Zakon za Radioto I Televizata* (Act on Radio and Television), that were the subject of broad political and media discussions throughout the second half of 2001, were finally adopted and entered into force in November 2001. These amendments affect two main parts of the Law – one regulating the supervisory body of the electronic media in Bulgaria (its name, functions, requirements concerning its members, etc.) and one determining the procedure of licensing and registering radio and television operators.

The former supervisory body of the electronic media in Bulgaria, called the National Council of Radio and Television (NCRT), was renamed as the Council on Electronic Media (CEM) (Chapter 2). A possible change in its structure, and in particular in the way its members were recruited, was discussed before the adoption of the current amendments. It was suggested that the present ratio of 5 members elected by the Parliament and 4 appointed by the President should be changed to 6:3 respectively. There were objections to this suggestion, based on the argument that it could result in too much governmental control over the media supervisory body. Finally the suggested change in the parliamentary and presidential quotas was rejected and currently the composition of the CEM remains unchanged. The mandate of the members of CEM is increased from 3 to 6 years.

The requirements regarding the professional experience of the members of CEM were amended. While previously the members of NCRT had to be "Bulgarian citizens with permanent registered addresses in Bulgaria, having a university degree and professional experience in the areas of radio, television, culture, journalism, audiovisual media, telecommunications, law or economics", currently the requirements are made more concrete – "experience in the areas" (only) "of the electronic media or telecommunications" and broadened by "a minimum of 5 years' experience in a radio or television organisation or in the area of telecommunications or 5 years' experience as a teaching professor in the areas of media or telecommunications" (Art. 25). According to the amendments a minimum of 5 years' professional experience in a radio or a television organisation is also required for the executive directors of the National Radio and the National Television respectively (Art.66 Para 1).

Some additional restrictions were imposed on the members of CEM with regard to their business and professional occupations during and after the expiration of their mandate. Furthermore, some additional requirements were introduced for declaring any financial, commercial, business or other kinds of interests of the members that might in any way affect their work in the Council (Art. 27 and 28).

The supervisory functions of the CEM are also expanded (in comparison with the ones of the former NCRT). In addition to the functions of the former NCRT, the CEM is entitled to issue regulations on compliance with radio and the television licenses, to organise competitions for the selection of radio and/or television operators that may apply for a telecommunications license for terrestrial broadcasting, to issue individual "media" licenses to the selected operators, to register the radio and television operators that use means other than terrestrial broadcasting, to represent (together with other bodies) the Republic of Bulgaria in international organisations relating to the electronic media and to coordinate Bulgaria's policy in the area of the electronic media (Art. 32).

According to the recent amendments of the Act on Radio and Television (Chapter 6) the radio and television operators are subject to licensing (in the cases where they operate with terrestrial telecommunication broadcasting networks) or to registration (in the cases where other kinds of broadcasting networks are used – e.g. cable or satellite). Both procedures are expressly regulated by the amended version of the Law. CEM is the body entrusted with the organization, execution and control of both licensing and registration of electronic media operators. The licensing procedure is preceded by a competition organised by CEM in coordination with the State Telecommunication Committee (STC) – currently called the Committee on Regulation of Telecommunications (CRT), ending with the election of a winner who is granted an individual media license (issued by CEM) and a telecommunications license (issued by CRT on the basis of a Resolution of CEM). CEM is obliged to register all the operators who are candidates for registration if they file the documentation required by Art. 111 of the Law and if the program projects, concepts, profiles or schemes suggested by the respective candidate comply with the provisions of the Act on Radio and Television. The registration lasts for an unlimited period of time (Art. 125a Para 7), while the term of the licenses (both media and telecommunications ones) is usually 15 years and can be extended by CEM's express resolution for a maximum total term of 25 years (Art. 109). Among the necessary documentation required from the competitors for a media license are "documents, proving the origin of the capital" of the competitors concerning the last three years (Art. 106 Para 6). ■

Gergana Petrova
Georgiev, Todorov & Co.

Amendments in the *Zakon za Radioto I Televizata* (Law on Radio and Television), adopted by the Parliament on 25 October 2001 and promulgated and published in the State Gazette No 96, of 9 November 2001.

BG

DE – Federal Supreme Court Rules on TV Advice Programmes

On 6 December 2001, the *Bundesgerichtshof* (Federal Supreme Court – *BGH*) reached five decisions of general principle concerning the admissibility of TV advice and consumer programmes. The defendants were various public and private TV broadcasters, who had broadcast certain legal information (concerning problems with holidays, for example), answered viewers' questions over the telephone or helped individual viewers to resolve legal disputes. The plaintiffs claimed that these programmes were in breach of the *Rechtsberatungsgesetz* (Legal Advice Act). Under the Act, legal advice may only be offered by people who are authorised by law or who have official permission (e.g. lawyers).

In the opinion of the *BGH*, most of the broadcasters did not infringe the Legal Advice Act by broadcasting the disputed TV programmes, since the main element of the programmes was not an individual case and its settlement, but general information for viewers concerning typical legal problems. Pursuing individual viewers' claims by exerting pressure through public reporting could not be likened to giving legal advice, since such activities were not carried out in the legal sphere. However, the *BGH* did consider that a TV broadcaster had breached the Legal Advice Act by offering advice by telephone outside the programme itself. ■

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

***Urteile des Bundesgerichtshofs vom 06. Dezember 2001, Az.: I ZR 316/98, I ZR 11/99, I ZR 14/99, I ZR 101/99, I ZR 214/99* (Judgments of the Federal Supreme Court, 6 December 2001, case nos.: I ZR 316/98, I ZR 11/99, I ZR 14/99, I ZR 101/99, I ZR 214/99)**

DE

DE – Network Operators' Hike in Cable Fees Prohibited

At the end of last year, the cable network operator *Primacom* lost a case at the Leipzig *Amtsgericht* (District Court – *AG*) to a client who had complained about a rise in cable connection fees.

The company had explained that the rise was necessary because it intended to digitise its cable network and had to cover the cost of that investment.

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In its ruling, however, the court deemed such a price rise to be illegal. In particular, *Primacom* could not rely on its general terms and conditions for cable connection, under which appropriate price rises were permitted if modernisation became technically necessary. Digitisation did not constitute "modernisation", since it did not improve the existing analogue broadband cable service.

In case the term "modernisation" was interpreted differently, the court also decided that the price could not be raised in order to pay for some future digitisation process. The cable connection contract was a permanent agreement. It was based on mutual obligations, so the idea of burdening individual cable customers with the cost of future digitisation, the implementation of which was still in doubt, could not be justified. *Primacom* could not finance its future digital TV service by raising the fee paid under contract by cable customers for an analogue service. It would have to find other means of raising the necessary funds for digitisation. ■

***Urteil vom 23. November 2001, Aktenzeichen: 1 C 10731/01* (Judgment of the Leipzig District Court of 23 November 2001, case no. 1 C 10731/01)**

DE

DE – Broadcasting Agreement Amendments Adopted

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On 20 December 2001, the heads of the German *Bundesländer* agreed to and signed the proposed amendments contained in the 6th Agreement Amending the *Rundfunkstaatsvertrag* (Inter-State Agreement on Broadcasting - *RStV*). Once they have been adopted by the parliaments of the *Länder*, the revised versions of the *RStV*, the *Rundfunkfinanzierungs-Staatsvertrag* (Inter-State Agreement on the Funding of Broadcasting - *RFinStV*) and the *Mediendienste-Staatsvertrag* (Inter-State Agreement on Media Services - *MDStV*) should enter into force on 1 July 2002.

The provisions on media concentration contained in the *RStV* have been amended. The audience share allowed before providers of national commercial TV are considered to have a dominant opinion-forming power has been reduced from 30% to 25%. However, such providers will be "credited" 2 or 3% if they broadcast regional programme windows or programmes by independent third parties.

Further amendments concern the possibility for *ARD, ZDF* and *DeutschlandRadio*, gradually and under appropriate conditions, to replace analogue terrestrial broadcasting with digital services and, by introducing technical safeguards, to exempt themselves from broadcast time restrictions designed to protect minors until the end of 2005.

The new para. 5a of the *RFinStV* is designed to increase transparency related to the funding of public broadcasters and companies part-owned by them. As soon as the Commission investigating the financial needs of broadcasters publishes its report, the *Landtage* (state parliaments) will be aware of broadcasters' economic and financial position. If they are subject to the duty of public disclosure, "key data" relating to subsidiaries and companies jointly owned by public broadcasters will also be published.

The *MDStV* incorporates the provisions relating to media services contained in Directive 2000/31/EC on e-commerce. For example, regulations on the "country of origin" principle are included in relation to such services. ■

***Sechster Staatsvertrag zur Änderung des Rundfunkstaatsvertrages, des Rundfunkfinanzierungsstaatsvertrages und des Mediendienste-Staatsvertrages (Sechster Rundfunkänderungsstaatsvertrag)* (Sixth Agreement Amending the Inter-State Agreement on Broadcasting, the Inter-State Agreement on the Funding of Broadcasting and the Inter-State Agreement on Media Services (Sixth Agreement Amending the Inter-State Agreement on Broadcasting))**

DE

DE – Regional Media Authorities Ban Religious and Political Advertising

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The *Landesmedienanstalten* (regional media authorities), which monitor private broadcasting in Germany, have recently dealt with two cases concerning the ban on religious and political advertising.

On 8 January 2002, the regional media authorities' *Gemeinsame Stelle Werbung, Recht, Europa und Verwaltung* (Joint Office for Advertising, Law, Europe and Administration) recommended that each of the regional media authorities, which are responsible for monitoring private broadcasters, should ban further broadcasts of advertisements for the book *Kraft zum Leben* ("Power for Living"), published by the American DeMoss Foundation. The DeMoss Foundation, which aims to promote Christian values, was giving copies of the book away free of charge on request and bought advertising slots from commercial broadcasters in order to promote the book.

According to para 7.8 of the *Rundfunkstaatsvertrag* (Inter-State Agreement on Broadcasting - *RStV*), advertising of a political, ideological or religious nature is not allowed. The ban applies to all radio and TV broadcasters. Under para. 42 of the *RStV*, broadcasts by the Protestant and Catholic Churches and the Jewish Community and election broadcasts for national elections are permitted. The regional media authorities informed the broadcasters under their control that they considered the advertisements unlawful. However, the broadcasters argued that this was neither political nor ideological advertising since the commercial only concerned the book itself. Nevertheless, all broadcasters ceased airing the advertisement on 11 January.

In a separate case, during their own productions in December 2001, several private broadcasters transmitted the message that the programme concerned would be jeopardised by the proposed amendment of the *Urhebervertragsgesetz* (Copyright Contract Act). The regional media authorities' Joint Office for Advertising, Law, Europe and Administration considered this message unacceptable on the grounds that it constituted political advertising. The relevant media authorities therefore urged the broadcasters to put an end to the practice. Neither the media authorities nor the broadcasters had to take a decision in the end because the message was only broadcast for a limited period of time. ■

**Press release by the regional media authorities' Joint Office for Advertising, Law, Europe and Administration, 8 January 2002, available at:
http://www.alm.de/gem_stellen/presse_wrev/pressemit/p080102.htm**

DE

ES – Appeal against Decree on TV Users' Right to Programme-Planning Information Dismissed

In October 2001, the *Tribunal Supremo* (Supreme Court) dismissed an appeal against some provisions of Decree 1462/1999, which implements Act 25/1994 on the incorporation into Spanish Law of the EC "Television without Frontiers" Directive. Decree 1462/1999, which only applies to national broadcasters, deals, *inter alia*,

with the right of television users to receive accurate information on the programme planning of television channels (see IRIS 1999-10: 10).

The Decree establishes that a broadcaster shall release its programme planning at least eleven days before broadcast. Broadcasters are required to provide information about all programmes lasting more than fifteen minutes. The information must consist of, at least, the name and type of each programme. If the programme is a film, it is also compulsory to indicate the name of the film's director and the year in which the film was made, while in the case of musical programmes, the information must include the names of the main artists participating in the event. Broadcasters cannot change the announced programme planning, except for justifiable reasons beyond their control which could not have been foreseen when the programme planning was released.

These provisions of Decree 1462/1999 were appealed before the Supreme Court by the national private broadcasters, *Antena Tres TV* and *Gestevisión Telecinco*, and by the association of national private broadcasters, *UTECA*.

According to the applicants, these provisions of the Decree should be deemed illegal for several reasons:

a) They claimed that these provisions should apply to all Spanish broadcasters, and not only to national ones; otherwise it would imply that Spanish broadcasters would have different obligations on this matter, depending on whether they were considered to be "national broadcasters" or not.
b) The applicants considered that it was disproportionate to oblige them to release their programme-planning details so far in advance and to provide such detailed information about the programmes.
c) The applicants also claimed that the burden to provide all that information had been unduly imposed upon them in order to benefit magazines specialising in the provision of information on the programme planning of television channels.

The Supreme Court rejected the appeal on several grounds:

a) According to the Supreme Court, the fact that Decree 1462/1999 only applied to national broadcasters - and not to regional and local broadcasters - complied fully with the role recognised by article 149.1.27 of the Spanish Constitution for the regional authorities as regards the regulation of the media.
b) The Supreme Court held that the Decree did not impose disproportionate obligations on broadcasters and that it kept a reasonable balance between the rights of broadcasters and the rights of television users.
c) The Supreme Court considered that the goal of the Decree was to protect the right of television users to receive accurate information on the programme planning of television channels, as recognised by article 18 of Act 25/1994. The fact that proportionate provisions that were approved with this aim in mind could indirectly benefit others did not affect their legality in any way. ■

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Dirección de Internacional Comisión del Mercado de las Telecomunicaciones

Sentencia del Tribunal Supremo, Sala 3ª, de 15.10.2001 (Ponente: Sr. Trujillo Mamely) **(Judgment of the Supreme Court (Administrative Chamber) of 15 October 2001)**

ES

ES – Bill on Creation of National Regulatory Authority for Broadcasting Sector

Spain is one of the few countries within the European Union and the Council of Europe in which the main authority for the audiovisual sector is not an independent regulatory body. There is a regulatory authority in Catalonia (*Consell de l'Audiovisual de Catalunya*) and in Navarra (*Consejo Audiovisual de Navarra*) (see IRIS 2001-9: 10) and, at the national level, there is an independent authority, the *Comisión del Mercado de las Telecomunicaciones* (Telecommunications Market Commission), which has some powers concerning the audiovisual sector. However, at the national level, the authority that has powers to enforce most of the provisions related to Spanish media law is the *Ministerio de Ciencia y Tecnología* (Ministry for Science and Technology).

In November 2001, an opposition party, *Izquierda Unida* (the United Left), presented a Bill on the creation of a national regulatory authority for the broadcasting sector. The text of this Bill is almost identical to that of two previous Bills on the matter presented before the Parliament by the United Left in December 1997 and in May 2000. Those Bills were rejected by the main party in the *Congreso de los Diputados* (the Lower Chamber of Parliament), the *Partido Popular* (the Popular Party) on the basis that they did not provide adequate solutions to some problems raised by convergence and that it would be better to wait until the Government, in accordance with its electoral commitment on this matter, presented its own Bill on the creation of a national regulatory authority for the broadcasting sector (see IRIS 2001-2: 8). In November 2000, the representatives of the Popular Party indicated in the Parliament that their Bill would be presented during 2001. As this deadline has not been adhered to, the United Left considered it necessary to re-open the debate on the issue by presenting this Bill. ■

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Dirección de Internacional Comisión del Mercado de las Telecomunicaciones

Proposición de Ley de regulación del marco institucional de garantía del Derecho constitucional a la comunicación, presentada por el Grupo Parlamentario Federal de Izquierda Unida, Boletín Oficial de las Cortes Generales – Congreso de los Diputados nº 179-1, 30.11.2001 **(Bill on the creation of an audiovisual council, presented by the United Left), available at: http://www.congreso.es/public_oficiales/L7/CONG/BOCG/B/B_179-01.PDF**

Proposición de Ley del Grupo Parlamentario Federal de Izquierda Unida, de creación del Consejo de la Comunicación. Diario de Sesiones del Congreso de los Diputados – Pleno, VII Legislatura - nº 42, Sesión Plenaria nº 40, 21.11.2000, pp. 2058-2067 **(Bill on the creation of a national regulatory authority for the broadcasting sector, presented by the United Left in May 2000), available at: http://www.congreso.es/public_oficiales/L7/CONG/DS/PL/PL_042.PDF**

ES

ES – Decree on Creation of Regional Public Television Channel in Castilla-La Mancha

In December 2001, the Spanish Government approved a Decree authorising the Government of the Autonomous Community of Castilla-La Mancha to operate a regional analog terrestrial television channel (see IRIS 2000-9: 8). According to this Decree and to Act 46/1983 (the "Third TV Channel Act"), only a company wholly owned by the regional public authorities may operate this channel.

The Decree also stresses that the creation of this new regional public television channel has to be made in accordance with the 1998 National Technical Plan on Digital Terrestrial Television (DTTV), which fixes a deadline

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for the analog switch-off (see IRIS 1998-10: 11). In order to facilitate the move from analog to digital, and in accordance with the precedent established by the Supreme Court judgment of 24 May 2001 (see IRIS 2001-8: 6), the Government of Castilla-La Mancha has been authorised to operate two DTTV programme services in the regional multiplex mentioned in Annex II of the 1998 National Technical Plan on DTTV.

Eight of the 17 Autonomous Communities in Spain now operate regional public analog television: four of them operate two analog programme services (Catalonia, Basque Country, Comunidad Valenciana and Andalusia), and four of them, one analog programme service (Madrid, Galicia, Canarias and Castilla-La Mancha). The Autonomous Community of Madrid has already started operating two DTTV programme services. ■

Real Decreto 1484/2001, de 27 de diciembre, por el que se concede a la Comunidad Autónoma de Castilla-La Mancha la gestión directa del tercer canal de televisión, Boletín Oficial del Estado n. 15, de 17.01.2002, pp. 2-4 **(Decree 1484/2001, authorising the Government of the Autonomous Community of Castilla-La Mancha to provide the public service of regional television), available at:**
http://www.noticias.juridicas.com/base_datos/Admin/rd1484-2001.html

ES

ES – Ministry Issues Guidelines on TV Advertising Regulation

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The Spanish regulation relating to television advertising can be found in Chapter III of Act 25/1994 on the incorporation into Spanish law of the EC "Television without Frontiers" Directive. In 2001, the European Commission initiated infringement proceedings against Spain for its poor application of the provisions of Directive 89/552/EEC dealing with television advertising (see IRIS 2001-4: 3).

The national authority in charge of applying those provisions, the *Ministerio de Ciencia y Tecnología* (Ministry for Science and Technology), considered that in order to enforce them properly, it was necessary to clarify some legal concepts. In December 2001, the *Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información* (the "State Department for Telecommunications and for the Information Society" of the Ministry for Science and Technology - SETSI) held a meeting with the main Spanish broadcasters and explained to them the criteria to be followed when applying these rules. These criteria have been enshrined in a document which establishes clearer rules as regards television advertising and which covers some matters that were not expressly mentioned in Act 25/1994, such as virtual advertising.

However, it is necessary to bear in mind that these new guidelines had to be drafted in accordance with Act 25/1994, some provisions of which on television advertising may go beyond what is allowed by the EC Directive. For example, Act 25/1994 establishes that sponsorship can be placed during programmes and in advertising spots (art. 15.1.a) and that the transmission time devoted to sponsorship (including "sponsorship" placed in advertising spots) shall not be taken into account when applying the limits on the transmission time devoted to advertising (art. 15.4). ■

Criterios interpretativos de emisiones publicitarias aplicados por la Subdirección General de Contenidos de la Sociedad de la Información en sus servicios de inspección y control – Secretaría de Estado de Telecomunicaciones y para la Sociedad de la Información del Ministerio de Ciencia y Tecnología, 17.12.2001 **(Criteria for the interpretation of the rules on television advertising - Ministry for Science and Technology, 17 December 2001)**

FR

ES – Regulation of Catalan Audiovisual Council on Fulfillment of TV Quotas

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Dirección de Internacional Comisión del Mercado de las Telecomunicaciones

In October 2001, the Catalan audiovisual regulatory authority, the *Consell de l'Audiovisual de Catalunya* (Catalonian Audiovisual Council, "CAC"), issued a Regulation establishing a procedure with the aim of verifying whether Catalan broadcasters comply with the quotas on European and independent audiovisual works established by articles 5, 6 and 7 of Act 25/1994 on the incorporation of the EC "Television without Frontiers" Directive into Spanish Law.

These articles of Act 25/1994 oblige broadcasters to reserve a majority of their transmission time for European works, as well as at least 10% for European works created by independent producers. Additionally, article 5.1 of Act 25/1994 (as amended by Acts 22/1999 (see IRIS 1999-7: 10) and 15/2001 (see IRIS 2001-8: 13)) establishes that those broadcasters in charge of channels whose programming includes recently-produced feature films (i.e., those produced less than seven years ago) must allocate at least 5% of their annual income towards the financing of European feature films and short films and TV movies. 60% of this financing must be allocated towards productions originally recorded in one of the languages accepted as official in Spain.

This Regulation of the CAC, which is binding on broadcasters under the jurisdiction of the Catalan authorities, defines some key concepts (e.g., what shall be understood, for these purposes, as "annual income" or "feature films or TV movies"), it imposes certain disclosure obligations upon broadcasters and it determines how broadcasters would be penalised in the case of a breach of these provisions.

Up to now, only national and Catalan authorities have adopted the implementation measures needed for the effective enforcement of provisions such as article 5.1 of Act 25/1994. ■

Acord 5/2001, de 31 d'octubre, pel qual s'aprova la Instrucció general del Consell de l'Audiovisual de Catalunya adreçada als operadors de televisió per tal de definir un procediment que permeti verificar el compliment de les obligacions que estableixen els articles 5, 6 i 7 la Llei 25/1994 **(Regulation establishing a procedure with the aim of verifying whether Catalan broadcasters comply with the quotas on European and independent audiovisual works established by articles 5, 6 and 7 of Act 25/1994), available at:**
http://www.gencat.es/cac/legislacio/a31oct01.htm

CA-ES

FI – New (Technical) Radio Act in Finland

On 16 November 2001, the *Radiolaki* (Radio Act) and the *Laki televisio- ja radiotoiminnasta annetun lain muuttamisesta* (Act on the amendment of the Act on Television and Radio Operations) were ratified. The Acts entered into force on 1 January 2002. The Radio Act replaces the former Radio Act (517/1988).

The Radio Act deals mainly with technical matters. The Act contains regulations on radio equipment, commercial and practical matters (such as importation, sale, health and safety, etc), trade conditions, possession and use,

and how the use of radio frequencies is planned and granted for different forms of use.

The *Valtioneuvosto* (Council of State (the Government)) makes the decisions on how frequencies are to be used in television and radio operations in accordance with a frequency plan. This was already the case previously, but now this regulation has been transferred from the Act on Television and Radio Operations to the Radio Act. When the Council of State makes decisions on the frequency plan, it sets aside certain frequencies for the public service broadcaster YLE (the Finnish Broadcasting Company). According to the Act on Television and Radio Operations, YLE has the right to carry on television and radio broadcasting without an operating licence. Thus the Council of State can decide on how many competing network operators are needed in the sector. The Council of State also decides on the number of mobile phone networks. Decisions on the use of other radio frequencies are made by the *Viestintävirasto* (Finnish Communications Regulatory Authority, FICORA, see IRIS 2001-8: 14). The new Act confirms the role of the Council of State in the planning of communications frequencies and clarifies the division of competences between the Council of State and FICORA.

The technical requirements for radio apparatuses and regulations concerning market surveillance are altered in accordance with Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (the "R&TTE Directive"). FICORA does not conduct any advance inspection of radio equipment, nor does it grant type approvals any more. However, FICORA does supervise equipment on the market.

The new Radio Act broadens the area of confidentiality to radio communications in that listening to confidential private radio communications is prohibited except for certain forms, eg. shortwave radio communications, which are open by nature. The new Act also permits users to apply for a reservation of frequencies in advance. This can be granted by FICORA. ■

Marina Österlund-Karinkanta
Finnish Broadcasting Company YLE EU and Media Unit

***Radiolaki* (the Radio Act), No. 1015/2001 of 16 November 2001, available at: http://www.finlex.fi/linkit/sd/20011015**
***Laki televisio- ja radiotoiminnasta annetun lain muuttamisesta* (Act on the amendment of the Act on Television and Radio Operations), No. 1016/2001 of 16 November 2001, available at: http://www.finlex.fi/linkit/sd/20011016**

FI-SV

The Act on Television and Radio Operations (744/1998), as amended on 25 August 2000 (778/2000), available at: http://www.mintc.fi/www/sivut/english/tele/massmedia/1998_744.htm

EN

Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, available at: http://europa.eu.int/eur-lex/en/lif/dat/1999/en_399L0005.html

DA-DE-EL-EN-ES-FI-FR-IT-NL-PT-SV

FR – Publication of Decrees Laying Down the Obligations incumbent on Future Terrestrially-Broadcast Digital Television Channels

The decree setting out the general principles concerning the contribution of future editors of terrestrially-broadcast digital television services to the development of the production of audiovisual and cinematographic works, and their obligations in terms of broadcasting European works and original French-language works or advertising has just been published officially (see two other articles on the new decrees elsewhere in this issue). The decree has been eagerly awaited, particularly since the call for applications from candidates for terrestrially-broadcast digital television put out by the CSA on 24 July last year (see IRIS 2001-8: 8). Adopted in application of the provisions of Articles 27, 70 and 71 of the amended Act of 30 September 1986, Decree no. 2001-1333 of 28 December applies to television services broadcast terrestrially in digital mode, except for simulcasts (the broadcasting in digital mode of channels broadcast in analog mode). This new text includes the definitions of the various services, distinguishing between the scheme for free channels and that for pay channels, for which a general scheme is provided (Heading II, Section 1), a scheme for those channels devoted to the broadcasting of cinematographic works (Section 2), and a scheme for those channels operating on a pay-per-view system. For each of these services details are also given of the obligations to contribute to the production and broadcasting of audiovisual and cinematographic works. There is also provision for substantial possibilities for the temporary relaxation of the obligations incumbent on editors (rules on their increase) to take into account the economic constraints peculiar to the initial stage of terrestrial digital broadcasting. It should be noted that, with a view to harmonising the scheme of the obligations incumbent on service editors whatever their mode of broadcasting or distribution, the rules laid down by this new decree are defined with reference to those applicable firstly to terrestrially-broadcast unencrypted analog channels and secondly to pay channels broadcast in the same way.

In this respect, a second decree on 28 December (no. 2001-1330) has amended the Decree of 17 January 1990 "laying down the general principles concerning the broadcasting of cinematographic and audiovisual works" in such a way as to gather within a single text those provisions which are at present scattered through other decrees and agreements between the channels and the CSA. Extended to all television service editors, the 1990 Decree thus amended therefore determines the scheme for broadcasting audiovisual and cinematographic works according to the different categories of service and modes of broadcasting (proportions of European cinematographic and audiovisual works and of original French-language works, scheme for the broadcasting of full-length cinematographic works and their programming grid). In particular, a new Section II is included in Heading I that defines cinematographic heritage services, audiovisual heritage services and the pay-per-view system. ■

Amélie Blocman
Légipresse

***Décret n° 2001-1333 du 28 décembre 2001 pris pour l'application des articles 27, 70 et 71 de la loi du 30 septembre 1986 et fixant les principes généraux concernant la diffusion des services autres que radiophoniques par voie hertzienne terrestre en mode numérique* (Decree no. 2001-1333 of 28 December 2001 adopted in application of Articles 27, 70 and 71 of the Act of 30 September 1986 and laying down the general principles for broadcasting services other than broadcasting by terrestrial means in digital mode)**

***Décret n° 2001-1330 du 28 décembre 2001 modifiant le décret du 17 janvier 1990 fixant les principes généraux concernant la diffusion des oeuvres cinématographiques et audiovisuelles* (Decree no. 2001-1330 of 28 December 2001 amending the Decree of 17 January 1990 laying down the general principles for broadcasting cinematographic and audiovisual works)**

FR

FR – Publication of Decrees Laying Down the Obligations incumbent on Future Terrestrially-Broadcast Digital Television Channels (continued)

The decrees laying down the obligations incumbent on the channels operating terrestrially-broadcast digital television in the future were published officially on 29 December 2001. Two of them concern the obligations incumbent on these channels to contribute to the development of the production of cinematographic and audiovisual works.

Decree no. 2001-1332 covers the contribution of the editors of television services broadcast terrestrially in analog mode financed in part by payments made by users. Its purpose is to replace Decree no. 95-668 of 9 May 1995 and extend its scope to include the means of broadcasting a number of encrypted service programmes, in either analog or digital mode. The provisions of the decree take into account the agreements between the editors of this type of service and the cinematographic profession. Under the new text, service editors must earmark at least 75% of their daily broadcasting time for programmes for which special access conditions apply (cinema services). As their contribution to the development of cinematographic production, channels must devote at least 20% of their total resources each year to acquiring broadcasting rights for works, at least 12% of which must be European works and at least 9% original French-language works. In order to ensure a varied spread of purchases for each type of film, the channels must reserve part of the sum spent on acquisitions for the pre-purchase of works not previously broadcast with a production budget that does not exceed a specified amount. In addition, Article 8 of the new decree sets a twelve-month limit on the duration of initial television exclusivity, excluding pay-per-view, of broadcasting rights for original French-language works. Lastly, the channels must devote at least 4.5% of their resources each year to the development of the production of European audiovisual works or original French-language works.

Decree no. 2001-1329 concerning the editors of television services broadcast unencrypted terrestrially in analog mode has now been amended by Decree no. 2001-609 of 9 July 2001 (see IRIS 2001-8: 7), which extends its scope to include channels broadcast terrestrially in digital mode or by cable and satellite.

The official gazette published on 1 February contained a final decree supplementing these arrangements and covering the obligations incumbent on cable networks in the context of carrying unencrypted terrestrially-broadcast digital television. The CSA was waiting for the publication of this decree, nicknamed the "must-carry" decree, which will come into force on 1 January 2003, to close its call for applications from candidates for terrestrially-broadcast digital television, as this could not be done until 45 days after the publication of the last decree. In view of the schedule drawn up by the CSA, if the call for applications is indeed closed in the first half of March, the choice of candidates should be completed in early August and the agreements signed in late November. ■

Mathilde de Rocquigny
Légipresse

***Décret n° 2001-1329 du 28 décembre 2001 relatif à la contribution des éditeurs de services de télévision diffusés en clair par voie hertzienne terrestre en mode analogique au développement de la production d'œuvres cinématographiques et audiovisuelles* (Decree no. 2001-1329 of 28 December 2001 on the contribution of the editors of television services broadcast unencrypted terrestrially in analog mode to the development of the production of cinematographic and audiovisual works)**

***Décret n° 2001-1332 du 28 décembre 2001 relatif à la contribution des éditeurs de services de télévision diffusés par voie hertzienne terrestre en mode analogique dont le financement fait appel à une rémunération des usagers* (Decree no. 2001-1332 of 28 December 2001 on the contribution of the editors of television services broadcast unencrypted terrestrially in analog mode which are financed in part by payments made by users)**
***Journal Officiel* (official gazette) dated 29 December 2001**

FR

FR – Amendment to the Decree of 27 March 1992 on Advertising and Sponsorship

In the context of the regulations adopted recently with a view to the launching of digital terrestrially-broadcast television, Decree no. 2001-1331 of 28 December 2001 has now extended the scope of the decree of 27 March 1992 "laying down the general principles for the scheme applicable to advertising and sponsorship" to all television services however they are broadcast (analog or digital, unencrypted or onpayment from users). It is intended to apply also to services other than television services broadcast terrestrially in digital mode (cable, satellite, encrypted channels).

A new Article 15-1 included in the 1992 decree continues the ban on cinema and pay-per-view services broadcasting advertisements during their programmes where special access conditions apply. However, waiving Article 8 of the decree which bans any advertising on television for alcoholic beverages, literary publications, the cinema, the press or distribution, where these same services are broadcast by cable, satellite or terrestrially in digital mode they are allowed to broadcast advertising for the cinema on condition that this is done during encrypted broadcasting. This new scheme waiving the ban on television advertising in favour of the cinema is one of the main innovations contained in the decree. The other area of reform in the regulations concerns the transposition of the Television Without Frontiers directive, as amended in 1997. This improves the wording of Article 7 of the 1992 decree, concerning the protection of minors. There is also a provision that "isolated advertising should remain the exception". A general rule contained in the new Article 15 V of the decree henceforth limits the maximum amount of time that may be devoted to the broadcasting of advertisements; this is a matter that, for the private terrestrially-broadcast channels, has until now only been covered in their agreements. Another major aspect of the reform lies in the transposition of the provisions of the TWF directive on self-promotion and teleshopping. According to the Act of 6 January 1988, the CSA has until now been the only body able to lay down rules on these points for services broadcast terrestrially or by satellite. Only teleshopping programmes broadcast on cable networks were regulated under the amended decree of 1 September 1992. The decree of 27 March 1992 is thus supplemented in order to lay down the rules for broadcasting this type of programme, depending on the various modes. Thus even the title of the text has been supplemented; its object is now to "lay down the general principles defining the obligations incumbent on service editors as regards advertising, sponsorship and teleshopping". ■

Amélie Blocman
Légipresse

***Décret n° 2001-1331 du 28 décembre modifiant le décret n° 92-280 du 27 mars 1992 pris pour l'application du 1° de l'article 27 de la loi du 30 septembre 1986 relative à la liberté de communication et fixant les principes généraux concernant le régime applicable à la publicité et au parrainage* (Decree no. 2001-1331 of 28 December amending Decree no. 92-280 of 27 March 1992 adopted in application of Article 27(1) of the Act of 30 September 1986 on freedom of communication and laying down the general principles for the scheme applicable to advertising and sponsorship)**

FR

FR – CSA Initiates Public Consultation on the Definition of an Audiovisual Work

When it categorised the programme "Popstars" as an "audiovisual work" (see IRIS 2002-1: 8), the CSA decided to embark on a wider consideration, reaching beyond this specific case and involving creators, producers and broadcasters, on the question of the relevance of the present definition of an audiovisual work in the light of new con-

cepts for programmes. It has therefore just posted a public consultation on its Internet site, launching a call for observations and hearing the main parties concerned, as well as the Directorate for the Development of the Media and the French national cinematographic centre (CNC).

It should be noted that, three months before the CSA, the CNC had considered that the programme "Popstars" was an audiovisual work and granted it the prior authorisation that triggers the granting of a support account available to any documentary series. Each of these two authorities has its own definition of what constitutes an audiovisual work, the CNC with a view to allocating a support account and the CSA in order to count the number of audiovisual works broadcast and produced by the channels in the calculation of quotas.

The definition applied by the CSA, contained in Decree no. 90-66 of 17 January 1990, is a negative definition in that it excludes from the status of an audiovisual work a whole list of types of programme – full-length cinematographic works, news broadcasts and information programmes, variety entertainment, games, broadcasts other than fiction mainly produced in the studio, sports coverage, advertisements, teleshopping, self-promotion and teletext services. The types of programme considered as audiovisual works by the CNC, which applies the definition contained in Decree no. 95-110 of 2 February 1995, are on the whole more limited than those used by the CSA for quota purposes. Four types of broadcast are nevertheless excluded by both authorities – variety entertainment, games, news broadcasts and sports coverage. On the other hand, fiction, animation and nearly all documentaries may both benefit from the support account and be recognised as audiovisual works by the CSA. The main differences cover three broad types – entertainment, shows and magazine programmes.

Furthermore, the CSA points to the value and topicality of the comparative analysis of the criteria under French and European regulations, as part of the prospect of a possible revision of the TWF directive in 2003. The definition of an audiovisual work contained in the Directive also functions by excluding certain types of programme. It is, however, broader than the definition used by the CSA as it includes variety entertainment and programmes other than fiction produced mainly in the studio as audiovisual works.

The CSA would therefore like to receive the analyses carried out by interested parties on the articulation of the various legal provisions. They have until 28 February 2002 to answer a range of important questions: Would it be appropriate to institute a common definition for the CSA and the CNC? Would it be desirable to align the French definition with the European definition, in the knowledge that the quota system included in the Directive could be amended when this is re-examined in 2003? As far as variety entertainment is concerned, is the difference between the European and national definitions still relevant, or should they converge? Would it be a good idea to extend the notion of a work to include television games? Regarding the form of broadcasts, is the notion of a studio still relevant? ■

Mathilde de Rocquigny
Légipresse

***Communiqué n° 472 du CSA et Consultation relative à la définition de l'œuvre audiovisuelle, janvier 2002* (Communiqué no. 472 by the CSA and Consultation on the definition of an audiovisual work, January 2002), available at http://www.csa.fr/html/dos148-1.htm**

FR

GB – Appeal in Lockerbie Trial May Be Televised

On 9 January 2002, Scotland's most senior judge decided to approve an application by the BBC to televise the proceedings of the appeal by Abdelbasset Ali Mohmed Al Megrahi against his conviction for causing the deaths of those aboard PanAm flight 103 and on the ground in Lockerbie, Scotland. If other broadcasters wish to televise the court proceedings live, they will have to apply separately.

An earlier application in 2000 to televise the proceedings of the trial was turned down on the grounds that the safety of witnesses might be compromised and also that some witnesses might decline to give evidence if the proceedings were televised.

The decision breaks new ground, albeit that it does not state a general rule regarding televising trials. Unlike the 1992 Directions "Television in the Courts" (the Criminal Justice Act 1925 forbidding cameras in the courtroom (s. 4) does not apply in Scotland), the consent of all involved in the trial need not be obtained first; the sitting judge(s) do not need to approve the footage edited for broadcast; and, in the Lockerbie case, the transmission – for the BBC only - is in real-time (and also streamed on the BBC's website, with a simultaneous Arabic translation). Edited highlights will also be used for regular news bulletins and on BBC News 24.

However, the conditions under which the BBC may televise the appeal are governed by a "Protocol regulating the broadcasting of audio-visual images". There are eight conditions:

1. Availability of a feed is at the "sole discretion" of the court.
2. The audio element will be provided in English, except where no. 3 applies.
3. On request, in the case of broadcasters from Arabic-speaking nations, the court will supply the simultaneous Arabic translation.
4. "No audio-visual images will be supplied to broadcasters of any evidence taken from witnesses…"
5. If the court takes the view that supplying the feed would be inappropriate, the court "in its sole discretion may temporarily or permanently end the supply of the 'feed'…"
6. If there is any *prima facie* contempt in respect of broadcast of the proceedings, the court has the power "to bring representatives of broadcasters before the court…"
7. "Broadcasters may use sections of 'the feed' for the purpose of news programmes."
8. "Broadcasters may use the 'the feed' either live or recorded." ■

David Goldberg
deeJgee Research/ Consultancy

The Scottish Court in the Netherlands HMA v. Abdelbasset Ali Mohmed Al Megrahi, Appeal Hearing commencing 23rd January 2002, "Protocol regulating the broadcasting of audio-visual images"

Petition (No. 2) of the British Broadcasting Corporation to the *Nobile Officium* of the High Court of Justiciary, Case 60/00 of 20 April 2000, available at: http://www.scotcourts.gov.uk/opinions/60_00.html

"Television in the Courts", Directions issued by the Lord President on 7 August 1992 and cited in the Petition of the British Broadcasting Corporation to the Nobile Officium of the High Court of Justiciary of 7 March 2000, available at: http://www.scotcourts.gov.uk/opinions/MCF0203.html

GB – Regulator Sets Out Procedures for Competition Issues and Public Consultation

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of Glasgow

The Independent Television Commission (ITC) which regulates broadcasting in the UK (except for the BBC) has issued revised codes on its competition procedures and on public consultation.

The competition code sets out the statutory basis for the ITC's competition duties, which include securing fair and effective competition between broadcasters and ensuring that a wide range of services is available (the Broadcasting Act 1990, s. 2(2)(a)). It is closely linked with the responsibilities of other regulators and competition authorities, and to avoid overlap, the ITC is a member of the Standing Committee on Competition in Communications which also includes the telecommunications regulator (the Office of Telecommunications – Oftel) and the Office of Fair Trading. The ITC will proceed by either *ex ante* policies, rules and guidelines, or by imposing sanctions on licensed broadcasters. In doing so it will have regard to the definition of relevant markets and the extent to which licensees enjoy market power, and will have regard to general competition law principles, including Articles 81 and 82 of the EC Treaty.

The ITC is undertaking an increasing number of public consultations (twelve in 2001), for example, in relation to revisions of its codes. In future, for major consultations it will provide a period of not less than twelve weeks for responses to be made, though a shorter period may be specified for a more focussed issue. It will not normally consult more than once, and, in addition to publishing a general invitation to respond on its website, the ITC will contact directly those likely to be significantly affected. Each consultation document will commence with a summary and will refer to the legal powers relied on. The full text of responses will be published on the website unless respondents have requested that a response is in confidence, and a further period of fourteen days will be allowed for comments on those responses. ■

ITC Guidance on Competition Procedures, available at:
http://www.itc.org.uk/documents/upl_394.doc
ITC Guidance on Public Consultation, available at:
http://www.itc.org.uk/documents/upl_393.doc
"ITC Publish Competition and Consultation Guidance", ITC News Release No. 06/02 of 17 January 2002, available at:
http://www.itc.org.uk/news/news_releases/show_release.asp?article_id=556

GB – Proposed Decision on Infringement of Competition Law

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The UK Office of Fair Trading, the main body which enforces competition law, has announced that it proposes to make a decision that BSkyB has behaved anti-competitively, infringing UK competition law. The company now has the opportunity to make representations before the Office reaches a final decision, which is not expected before Summer 2002.

The decision relates to abuse of a dominant position, which is prohibited under Chapter II of the Competition Act 1998. The UK law is almost identical to the provisions of Article 82 of the EC Treaty. The Office decided that BSkyB has a dominant position in the wholesale market for the provision of pay premium sports and film channels. The alleged abuse relates both to the provision of pay premium sports and film channels and the market for the distribution of pay TV channels. In particular, the Company's margin between the wholesale price it charges distributors and the retail price paid by its own subscribers may not be enough for third-party distributors of its premium channels to make a normal profit. Discounts given to distributors when they take packages of premium channels may prevent rival premium channel providers from entering the market, and the same may apply to discounts for premium sports and film channels, where distributors' marketing decisions may also be distorted. ■

"OFT proposes to find BSkyB in breach of law", the Office of Fair Trading Press Release No. PN 51/01 of 17 December, available at:
http://www.oft.gov.uk/html/rsearch/press-no/pn51-01.htm

HU – National Radio and Television Commission Imposes Fine on Pannon Radio

Gabriella Cseh
Squire, Sanders
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Budapest

The National Radio and Television Commission (NRTC) on 26 October 2001 filed a first written notice to Pannon Radio, a regional commercial broadcaster, in relation to its program entitled "Standard" and imposed a fine of HUF 1 Million (about EUR 4,078).

In September 2001, during the Pannon Radio's "Standard", the full text of an already-published article of the Vice-president of the Hungarian Justice and Life Party (HJLP) and Member of Parliament representing HJLP was read. Originally the article was published in a HJLP party paper. In connection with the article mentioned above, a criminal investigation has already been launched by the Central Criminal Prosecution Investigation Office on suspicion of incitement against a section of society.

According to the NRTC, reading the article on "Standard" was liable to incite hatred against minorities. However, the majority of NRTC's members voted not to file a petition for a criminal investigation against Pannon Radio due to the broadcast of the aforementioned article.

At the same time, the NRTC postponed the examination of a complex analysis of Pannon Radio's programs submitted to the NRTC prior to its session of 26 October 2001. According to this analysis, Pannon radio continuously features in a negative way Jewish, Roma and homosexual minorities by using humiliating and vulgar expressions. As a result, the analysis recommends that the NRTC should impose a fine of HUF 2,3 Million (about EUR 9,381) on Pannon Radio.

According to Article 112 paragraph 4 lit. c) of the Act I of 1996 on Radio and Television ("Media Act"), the NRTC may impose a fine twice or file a written notice to the broadcaster concerned concerning the violation of the Media Act. After the second written notice, the NRTC has to withdraw the broadcaster's license. ■

Written notice of the National Radio and Television Commission (NRTC) dated 26 October 2001.

HU

IE – Public Service Broadcaster Introduces On-Screen Classification System

Candelaria van Strien-Reney
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Ireland's national public service broadcaster, RTÉ, has just introduced a system that will help television viewers to decide whether or not its programmes are suitable for children and teenagers. Pre-recorded programmes shown on RTÉ's two television stations now show a small icon in the top right-hand corner of the screen for twenty seconds at the beginning of the programmes.

There are five classifications: General Audience (GA), Children (Ch), Young Adult (YA), Parental Supervision (PS), and Mature Audience (MA). Programmes classified as "Young Adult" are aimed at teenagers and may deal with relationships, sexual activity or soft drugs. Those classified as "Parental Supervision" may deal with adult themes and be moderately violent or include the occasional use of swear words. Those classified as "Mature Audience" contain scenes of sexual activity, violence or profane speech.

While cinematic films and videos have age classifications in accordance with the provisions of the Censorship of Films Acts 1923-1992 and the Video Recordings Act 1989 respectively, broadcasters are not subject to those Acts. However, under the Broadcasting Act 2001 (see IRIS 2001-4: 9), the Broadcasting Commission of Ireland has been given responsibility to draw up Codes and Rules in relation to programming standards. These will apply to all broadcasters, including RTÉ, but they have not as yet been introduced. ■

"RTE will now come with a warning", The Irish Times, 19 January 2002, available at: http://www.ireland.com/newspaper/front/2002/0119/812368684HMRTE.html

RO – Public-Service Broadcasting Administrative Board Dismissed

Mariana Stoican,
Radio Romania International

On 12 December 2001, the Romanian Parliament dismissed the *Consiliul de Administratie* (administrative board) for public-service broadcasting.

In a joint parliamentary decision agreed at a joint session, the Senate and the House of Representatives rejected the administrative board's report for the year 2000 because of alleged irregularities. The decision was taken on the basis of a report by a committee of experts. Under Article 46.7 of Act no. 41/1994 on the organisation and functioning of Romanian radio and television corporations, the rejection of the annual report leads automatically to the dismissal of the administrative board. ■

Act no. 41/1994 of 16 June 1994 on the organisation and functioning of Romanian radio and television corporations, as amended on 22 June 1998.

RO

RO – CNA Sets Out Plans for 2002

Mariana Stoican,
Radio Romania International

The Romanian supervisory authority for electronic media, the *Consiliul National al Audiovizualului* (CNA), set out its main plans for 2002 in a press release issued on 17 January 2002.

The main priority for the CNA in 2002 will be to monitor provisions for the protection of minors. The reason for this is a noticeable trend that emerged last year, with TV stations frequently broadcasting films containing scenes of horror, violence or sex in prime-time slots. These films should only have been shown after 10 pm with an appropriate warning. In this context, the CNA is urging broadcasters to ensure that their programming strategy for 2002 contains measures to protect the moral and spiritual development of minors.

In its communiqué, the CNA also calls for more careful handling of ethnic references in TV debates, particularly those concerning offences supposedly perpetrated by supporters of national minorities. Offensive comments concerning people's ethnic origin should not be tolerated.

The CNA intends to publish the results of its supervision and monitoring activities at regular intervals. ■

CNA Press Release of 17 January 2002.

RO

FILM

CH – Publication of New National Legislation on Cinematographic Culture and Production

Patrice Aubry
Lawyer (Geneva)

On 28 December 2001 the Swiss Federal Council published new national legislation on cinematographic culture and production (Cinema Act – LCin). The wording of the Act is based on the Federal Council's Message published in September 2000, and takes into account the criticisms expressed by some of the parties concerned in the course of the consultation procedure (see IRIS 2001-1: 12).

The total revision of the Cinema Act of 28 September 1962 has been on the national policy agenda for more than twenty years. A number of bills have been abandoned, but a new bill was finally submitted to the consultation procedure in 1999 (see IRIS 2000-6: 10). The bill was welcomed by the majority of those consulted. The main divergences still remaining were eliminated by means of a statement published by the cinematographic sector as a whole on 7 August 2000 during the Locarno Film Festival.

The main aims of the new Act are firstly to encourage independence and evolution in cinematographic production and culture and secondly to foster variety and quality in what is offered, by means of appropriate measures and provisions. The Act is based on the principle that diversity in the output of the cinematographic sector is the true key to its quality.

The Cinema Act is subject to a non-compulsory referendum. If no referendum has been called for by 8 April 2002, the Federal Council will be able to set the date on which this new national legislation is to come into force. ■

***Loi fédérale sur la culture et la production cinématographiques* (Federal Law on cinematographic culture and production, Act of 14 December 2001), published in the *Feuille Fédérale* (official gazette) of 28 December 2001, page 6136.**
Available on the Internet site of the Swiss national administration at
http://www.admin.ch/ch/f/ff/2001/6136.pdf (FR)
http://www.admin.ch/ch/d/ff/2001/6488.pdf (DE)

FR-DE

FR – Qualification as an "Original French-Language Work" and as a "European Work"

Amélie Blocman
Légipresse

After the question of the definition of what constitutes an audiovisual work (see IRIS 2002-1: 8), it was the turn recently for the qualification as a cinematographic or audiovisual "original French-language work" and "European work" to benefit from a number of clarifications. In the case in hand, the CSA had refused this qualification for a full-length animated film based on *The Diary of Ann Frank* that used images from an animated film produced in Japan. The producer of the disputed film had made over the exclusive television broadcasting rights to the Canal + channel subject to the film being qualified as a cinematographic or audiovisual original French-language work. Because the CSA's decision made it impossible to perform the contract and receive the corresponding remuneration, the producer of the film had called on the *Conseil d'État* to reverse the decision as an urgent matter. In a decision on 12 December 2001, the *Conseil d'État* recalled that under the terms of Article 5 of the Decree of 17 January 1990, "cinematographic or audiovisual original French-language works are those works produced principally or totally in the French language in their original version (...)". Although the disputed film uses images from an animated film made in Japan, its screenplay and dialogues are nevertheless entirely original, based on the work *The Diary of Ann Frank* and other, authentically French, elements. Moreover, according to Article 6 of the Decree of 17 January 1990, "European works" comprise those works which firstly are produced by a European undertaking or by an undertaking financed by European capital, and secondly employ European performers and technicians for their production. The *Conseil d'État* noted that the production company in question was a European undertaking and that the financing for the work was provided by European funds. The expenditure corresponding to the purchase of the Japanese animated film amounted to no more than approximately 12% of the total cost of the work; the remainder had been spent in France on re-editing, screenwriting, dialogues and music. Consequently, the Conseil d'État pronounced the reversal of the CSA's decision to refuse to qualify the disputed film as a European work and an original French-language work. ■

***Conseil d'État (ordonnance de référé), 12 décembre 2001, Sté Globe Trotter Network* (*Conseil d'État* (order in an urgent matter), 12 December 2001, Société Globe Trotter Network)**

FR

NEW MEDIA / TECHNOLOGIES

CZ – Electronic Signatures in Public Administration

Jan Fučík
Broadcasting Council Prague

After adopting the Electronic Signatures Act in June 2000, the Czech government has set out, in Resolution no. 304/2001, a number of conditions for the practical implementation of the Act.

The government is keen to make its electronic legal and business dealings legally binding in order to safeguard the protection of basic rights. According to the Resolution, the State administrative authorities are obliged to accept legal documents in electronic form. If registered electronic signatures are used in administrative procedures, signed electronic documents should be legally binding. The relevant workplaces will be equipped with the requisite technical precautions to facilitate all forms of electronic communication between the administration and its communication partners, in compliance with all technical standards.

Under the Act, the Office for the Protection of Personal Data is responsible for the certification of accredited certification service providers. It is also in charge of monitoring all providers of certificates for registered electronic signatures. The Office is also entitled to lay down terms and conditions regarding the activities of certification service providers and standards for drawing up and verifying registered electronic signatures. It carried out this task through Communiqué no.366/2001. ■

Czech Government Resolution no. 304/2001 concerning laws and decrees to implement the Electronic Signatures Act
Communiqué no.366/2001 of the Office for the Protection of Personal Data concerning laws and decrees to implement the Electronic Signatures Act

CS

RELATED FIELDS OF LAW

AL – Report on Protection of Copyright

Hamdi Jupe
Albanian Parliament

In a letter addressed to state authorities on 8 January 2002, "Albautor", the only independent rights-management association dealing with copyright protection, gave an overview on the protection of copyright in the audiovisual sector.

"Albautor" has signed 40 contracts with Albanian private radio and television operators in accordance with copyright law. The contract with "Albautor", a legal obligation deriving from Law No. 8410 for public and private Radio and Television in the Republic of Albania of 30 September 1998 (see IRIS 1999-2: 11), is one of the requirements that must be fulfilled in order to obtain a licence for private radio and television transmission. According to the report, none of the operators has paid the required fee yet. This has obliged "Albautor" to terminate the contracts, thus rendering further transmission activities illegal. Four radio/television operators have been sued, but so far only one has been fined by the competent court. ■

Letter of Albautor of 8 January 2002 addressed to state authorities on the protection of copyright in the audiovisual sector

SQ

BG – Amendments to the Law on the Telecommunications Adopted

On 19 December 2001, the Law on Amendments of the Telecommunications Law was adopted. It renames and restructures the main body for the regulation and supervision of telecommunications in Bulgaria. The former supervisory body – the State Committee on Telecommunications (SCT) was a state body attached to the Council of the Ministers. It was composed of 5 members appointed by the Prime Minister in accordance with a governmental resolution for a mandate of 7 years. According to the amended version of Chapter 4 Section 1

Gergana Petrova
Georgiev, Todorov & Co.

of the Law, the main regulatory and supervisory body of the telecommunications will now be called the Committee on Regulation of Telecommunications (CRT). It is an independent state body (Art. 22). The Law now requires all its members to have a University education. Among its members there must be "at least one qualified lawyer and one economist" (Art. 23 Para 2). The CRT consists of 5 members elected/appointed according to the following: one chairman of the Committee is appointed by the Prime Minister on the basis of a governmental resolution; one vice-chairman and two members of the Committee are elected by the Parliament; one member of the Committee is appointed by the President. The members of CRT have a mandate for 5 years. The amendments introduce restrictions and requirements concerning the conflict of interests that may occur during the decision-making process by the CRT. To that end, each member of the Committee is obliged to notify any kind of financial or business interest he/she may have in a particular decision (Art. 24 Para 5-7). The new Committee is aimed to be less bound to the government, as well as more independent and professionally oriented than the former one. ■

Amendments to the Law on the Telecommunications adopted on 19 December 2001 and published in the State Gazette No 112, of 29 December 2001.

BG

DE – Federal Supreme Court Confirms Shock Advertising Ban

Dr. Carmen Palzer
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The *Bundesgerichtshof* (Federal Supreme Court – *BGH*) has again ruled on the admissibility of so-called "shock advertising" under competition law. In its judgment of 6 December 2001, it prevented the defendant, a press firm, from printing an advertisement for the Benetton company, depicting a person labelled as "HIV Positive", on the grounds that it was immoral within the meaning of Article 1 of the *Gesetz zum Schutz gegen den unlauteren Wettbewerb* (Unfair Competition Act – *UWG*) and was therefore unlawful.

The *BGH* had reached the same verdict in a previous judgment of 6 July 1995 (I ZR 180/94). This ruling had been overturned after the defendant appealed to the *Bundesverfassungsgericht* (Federal Constitutional Court – *BVerfG*), which ruled on 12 December 2000 that the ban breached the fundamental right to freedom of expression enshrined in Article 5.1 of the *Grundgesetz* (Basic Law). It referred the case back to the *BGH* for a new ruling (see IRIS 2001-2: 13). The Constitutional Court said that the right to freedom of expression could only be restricted on the grounds of important public interests or the rights of third parties. It thought that confronting the reader with unpleasant or pitiable images was not sufficient to justify such a restriction. The *BGH* had also considered that the "HIV Positive" advertisement amounted to a serious breach of human dignity, protected by Article 1.1 of the Basic Law, since it branded AIDS sufferers and portrayed them as being excluded from human society. The Constitutional Court argued that an equally valid interpretation was that the advertisement was actually a condemnatory reference to the danger that HIV sufferers might be or were already excluded. It said that the *BGH* should have considered these alternative possible interpretations and indicated the reasons for its decision in order to comply with Article 5.1 of the Basic Law. Since it had failed to do so, the case was referred back for retrial.

In its decision of 6 December 2001, the *BGH* admitted that the advertisement could be interpreted as an expression of solidarity with HIV carriers. It would therefore not infringe competition law if that were the only possible interpretation or if its character as a simple commercial advertisement were seen only by a small proportion of the targeted public. This, however, was not the case, according to the *BGH*. Rather, the advertisement, even if it could also be interpreted as an appeal for solidarity, would be seen by the overwhelming majority as drawing attention to the company named in the advertisement. That company would therefore be exploiting AIDS sufferers, their affliction and their stigmatisation by society for its own economic advantage. The people portrayed and their fate would be used as a means of generating commercial profit. The advertisement was therefore immoral within the meaning of Article 1 of the *UWG* and did not warrant protection under the principle of freedom of expression because it harmed the dignity of AIDS sufferers. The defendant should not, therefore, have published it, according to the investigation. A press firm was only legally responsible for an advertisement if it was clearly recognisable as being in gross breach of competition law. The *BGH* ruled that this was the case where the "HIV Positive" advertisement was concerned. ■

***Urteil des Bundesgerichtshofs vom 6. Dezember 2001 Az.: I ZR 284/00* (Ruling of the Bundesgerichtshof (Federal Supreme Court – BGH), 6 December 2001; case no. I ZR 284/00)**

DE

DE – Journalists' Right to Silence Extended

Peter Strothmann
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The right of journalists to refuse to give evidence has been extended by an amendment to the code of criminal procedure. The *Bundesrat* (Upper House) has followed the *Bundestag* (Lower House) in accepting a compromise proposed by the mediation committee of the two houses of parliament.

Under the amendment, journalists' own research will be subject to the law on the right to silence and will therefore be exempt from confiscation. Under previous legislation, this only applied to material received by journalists from third parties.

Initially, exceptions to this new law would only have been granted in cases where the evidence concerned would help to solve a crime punishable by at least a one-year prison sentence. However, the mediation committee agreed that more exceptions should be allowed. Therefore, the law on the right to silence will not apply in cases involving breaches of the peace, threats to the rule of law, treason, crimes that put external security at risk, offences against sexual self-determination and money laundering.

The new Act also extends journalists' right to silence to include the production and distribution of non-periodic publications (books, film reports, etc). ■

***Beschlussempfehlung des Vermittlungsausschusses zu dem ... Gesetz zur Änderung der Strafprozessordnung – Drucksachen 14/5166, 14/6576, 14/7015* (Recommendation of the mediation committee concerning the ... Act amending the code of criminal procedure – documents 14/5166, 14/6576, 14/7015. The minutes of the mediation committee meeting held on 11 December 2001 are available at: http://dip.bundestag.de/btd/14/077/1407776.pdf**

DE

FR – Rights of a Phonogram Producer in Connection with a Virtual Duet Broadcast by Radio

The scope of the statutory licence instituted by Article L. 214-1 of the *Code de la propriété intellectuelle* (French intellectual property code – CPI) still requires interpretation by the courts. It provides that "where a phonogram has been produced for commercial purposes, the performer and the producer may not oppose (...) its

being broadcast (…)". In the present case, the radio station Europe 2 had produced and broadcast a duet that it had dubbed a "virtual duet", comprising excerpts from the phonogram of the performance of a song by Serge Gainsbourg (*Je suis venu te dire que je m'en vais*) and from a phonogram of the same song sung by another performer, the singer Jean-Louis Aubert. The company Polygram – which holds the rights in respect of the Serge Gainsbourg phonogram – maintained that this virtual duet, produced without its authorisation, infringed its producer's rights, and took the matter to court. The commercial court in Paris found in its favour and ordered the radio station to pay damages and to stop using the disputed duet. The radio station, which felt that the duet fell within the scope of the statutory licence and contested that it had infringed either Polygram's broadcasting rights or its reproduction rights, appealed. In a decision on 16 January 2002, the court of appeal in Paris upheld the original decision, holding that by not having any authorisation to reproduce the phonogram of Serge Gainsbourg's performance on the hard disk of a computer – a necessary part of producing the virtual duet – Europe 2 had infringed the reproduction rights of the producer, Polygram. As for broadcasting rights, the radio station claimed that the duet, as broadcast, had not been fixed on any support and fell within the statutory licence scheme. But the court of appeal found that the disputed duet constituted the broadcasting of a sequence of sounds that - however it was categorised - would necessarily be perceived by the final listener as being separate from the commercial phonograms used to produce it. Such broadcasting, which did not correspond to the straightforward broadcasting of the commercial phonograms that comprised the virtual duet but was the product of manipulations and modifications carried out by the radio station's employee in order to produce the duet, could not be covered by the scheme set up under Article L. 214-1 of the CPI, as the statutory licence only covered the unadulterated broadcasting of commercial phonograms. The radio station was therefore ordered to stop using the disputed duet, on pain of a penalty, and to pay Polygram EUR 15 244 in damages. ■

Amélie Blocman
Légipresse

***Cour d'appel de Paris (4e chambre A), 16 janvier 2002 – Sté Europe 2 Communication c/ Sté Universal Music anciennement dénommée Polygram et SCPP* (Court of appeal in Paris (4th chamber, A), 16 January 2002 – Société Europe 2 Communication v. Société Universal Music, formerly known as Polygram and SCPP)**

FR

RU – Criminal Procedure Code Contains new Provision concerning Mass Media

Recently signed by the Russian President on 18 December 2001, the Criminal Procedure Code of the Russian Federation contains some new provisions concerning the dissemination of information by means of the mass media.

First, when a story appears in the mass media about the commission of a crime or concerning the preparation for it, such action shall serve as grounds for initiating a prosecution. On demand by a prosecutor, an investigator or a body of inquiry, the editorial office and editor-in-chief of the enterprise concerned shall be obliged to hand over all the documents and materials giving information about the crime. In regard to the source of information, the editorial office and the editor-in-chief may refuse to submit the relevant data if the person had previously asked them to protect his confidentiality.

Second, while criminal cases shall be tried in open court, exemptions are now possible for matters of commercial, bank and official secrets protected by federal law. It should be noted that as of now a court can take a decision on holding a trial *in camera* only in the following situations: in order to keep state secrets, to protect minors accused of committing a crime, to ensure the safety of participants in the trial, their relatives and other persons close to them, as well as if in the course of a trial there is a possibility of divulging information regarding the private life of those involved in the trial, or of infringing their dignity and honor.

Finally, the Code establishes that a person attending a trial shall have the right to make an audio recording without any hindrance. As to photographing, videotape recording and filming, it shall be possible only with the authorization of the judge and parties of the trial.

The Code shall come into force on 1 July 2002. ■

Natalie Boudarina
Moscow Media Law and Policy Center

***Ugolovno-processualniy kodeks Rossiyskoy Federatsii* (Criminal Procedure Code of the Russian Federation) was officially published in *Rossiyskaya Gazeta* daily on 22 December 2001**

RU

YU – New Laws on Broadcasting and Telecommunications to Be Adopted Simultaneously?

The preparation of new media legislation for Serbia, which has already taken almost 15 months (see IRIS 2001–6: 10), is entering its last phases in early 2002.

The draft Broadcasting Act of Serbia, which was submitted by the expert group to the Government of Serbia in August 2001, has finally reached the adoption procedure. The only remaining obstacle to a swift adoption of the Law on Broadcasting in the Parliament is the position of the Government of Serbia that the Law on Telecommunications of Serbia shall be passed simultaneously, and the text on telecommunications needs some time in order to be fine-tuned. Notwithstanding that the implementation of the new Law on Broadcasting presumes the existence of the new system in telecommunications, most of the broadcasters are eager to see the regulation pertaining to them adopted as soon as possible, since for the past 14 months no station could legally expand or get a new broadcasting license due to a moratorium imposed by the Federal Government.

Two pieces of general media legislation – the new Law on Public Information, as well as the Law on Free Access to Information – are still being drafted. The first of these, however, has been altered for four times already, and the final discussion among the expert group, the professionals and European experts is to be held in late January. The second has not yet reached the stage of the first draft.

The Draft Law on Advertising, also a vital one for the operation of the media, is being fine-tuned and polished by the expert group that drafted it, and it shall be submitted to the Government of Serbia by early February at the latest. The advertising regulation has gained the support of almost all key players in the industry and of consumer protection associations. Therefore it is reasonable to presume that the Government of Serbia shall also support the proposed text.

Based upon the current situation, it is expected that the full set of media laws shall not be enacted before this summer. However, the broadcasting and telecommunications regulations might be on the parliament's agenda by late February or early March, thus creating a new and more open environment for businesses in that area. ■

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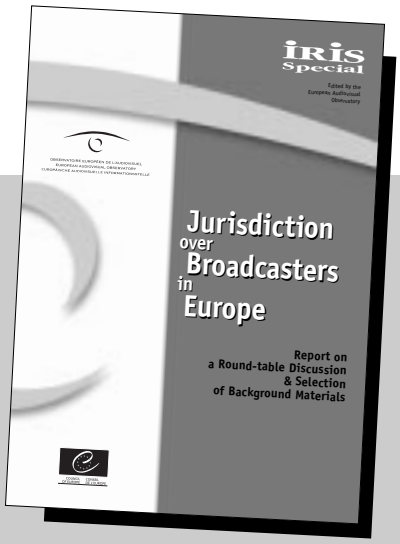
Broadcasting Bill – Telecommunications Bill
Bill on Public Information – Bill on Free Access to Information

SR

IRIS LEGAL OBSERVATIONS
OF THE EUROPEAN AUDIOVISUAL OBSERVATORY



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Background material such as a selection of laws, excerpts from laws, relevant case law, national cases, opinions and recommendations are appended to the report.

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PUBLICATIONS

Beier, Nils.-*Die urheberrechtliche Schutzfrist: eine historische, rechtsvergleichende und dogmatische Untersuchung der zeitlichen Begrenzung, ihrer Länge und ihrer Harmonisierung in der Europäischen Gemeinschaft.*- München: C.Beck, 2001.-XVIII, 258 S.- ISBN 3-406-4721-8

Derieux, Emmanuel.-*Droit des médias.*- 2e éd.- Paris: Dalloz, 2001.-145 p.

Dustmann, Andreas.- *Die privilegierten Provider: Haftungseinschränkungen im Internet aus urheberrechtlichen Sicht.*- Baden-Baden: Nomos, 2001.-(*Schriftenreihe des Archivs für Urheber-, Film-, Funk- und Theaterrecht (UFITA)* Bd.196) -ISBN 3-7890-7573-6.-EUR 44

Goldmann, Bettina.-*Die kollektive Wahrnehmung musikalischer Rechte in den USA und Deutschland: eine rechtsvergleichende Studie zu Recht und Praxis der Verwertungsgesellschaften.*- München: C;Beck, 2001.-XXXII, 488 S.- ISBN 3-406-48114-0.-EUR 78

Nizza, die Grundrechte-Charta und ihre Bedeutung für die Medien in Europa = Nice , the Charter of Fundamental Rights and their importance for the Media in Europe: EMR - Fachtagung in Zusammenarbeit mit der Europäischen Rechtsakademie Trier vom 22.-23 März 2001 = EMR-Conference in co-operation with the Academy of European Law Trier on 22 and 23 March 2001 .- (Schriftenreihe des Instituts für Europäisches Medienrecht (EMR), Bd.23).- ISBN 3-7890-7609-0.-118 S.- EUR 24

Pierce, Jennifer; Purvis, Ian (Eds.).- *Working with technology: law and practice.*-London: Sweet & Maxwell, 2001.-LXX , 543p.- ISBN 0- 421 -59 -8107.-GBP 95

Schumacher, Christian.-*Medienberichterstattung und Schutz der Menschenrechte.*- Wien: Mainz, 2001.-*(Österreichische Schriftenreihe zum gewerblichen Rechtsschutz, Urheber- und Medienrecht (ÖSGRUM)*, Bd. 23).- ISBN 3-214-07721-X.-EUR 54

Légipresse (Eds.).- *Les nouvelles frontières du droit d'auteur.*- Paris, 2001 (Légicom N° 25 2001/2) EUR 68,50

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