2nd May 2002 : Radio broadcasting rights for the football World Cup :the Conseil de la concurrence issues an interim measure against GIE [1] Sport libre

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> Version française

Following a referral by the company RMC Info, in a decision dated 30th April 2002, the *Conseil de la concurrence* handed down an interim measure against GIE Sport libre, ordering it to end behaviour likely to prevent the company RMC Info from exercising its exclusive radio broadcasting rights to the football World Cup.

Exclusive broadcasting rights obtained by RMC Info

On 4th December 2001, the company RMC Info signed a contract with the company Kirchmedia, which held exclusive radio broadcasting rights to matches of the 2002 football World Cup through an agreement with IFA (International Football Association). The said contract gave RMC Info exclusive rights to broadcast the matches in France, and included an obligation to seek to cover the entirety of the French national territory. Since RMC Info's broadcasting zones only cover half of the French population, the company sought to reach sub-licence agreements with other radio stations.

In the name of pluralism and the principle of freedom of information, on 17th December 2001 the main general interest radio stations set up an Economic Interest Group called GIE Sport libre, to which they had granted exclusivity in their policy for purchasing sporting rights.

RMC Info and the Economic Interest Group did not succeed in reaching a sub-licence agreement. Since it was unable to negotiate individually with the

members of the group (since the rules applied within it prohibited its members from entering into individual negotiations), and with the World Cup tournament approaching, RMC Info asked the *Conseil de la concurrence* to take emergency measures against the group.

The problem of selling radio broadcasting rights

GIE Sport Libre revealed that the companies responsible for creating it were opposed to the very principle of exclusive radio broadcasting rights for sporting events.

The *Conseil* took the view that it has no place to rule on the legitimacy of selling exclusive radio broadcasting rights. However, referring to the opinion issued by the CSA (Broadcasting Regulator) which indicates that "the acquisition of exclusive rights for broadcasting sporting events over the radio is not prohibited by any legislative or regulatory measure in force", the *Conseil* concluded that there was nothing to prevent it from examining RMC Info's referral.

The practice by which several companies combine their purchasing policy is not prohibited in itself, but it can often pose competition problems that justify a full inquiry into the case.

The need for an interim measure

In light of the calendar of the World Cup and the fact that this situation could potentially deprive listeners (in the part of France not covered by RMC) of the ability to hear broadcasts of football World Cup matches, the *Conseil de la concurrence* took the view that there was a serious and immediate risk of damage to consumer-listeners' interests.

Consequently, the *Conseil de la concurrence* ordered GIE Sport libre to suspend certain clauses in its articles of association and internal rules, which strictly limited the ability of its members to negotiate or sign any individual agreements relating to broadcasting of sporting events, specifically for radio broadcasts of the football World Cup matches.

This procedure is not intended as a substitute for a full inquiry into the case on the merits, which will be conducted at a later date and will result in a new decision.

> Decision n° 02-MC-06 of 30th April 2002, relative to the referral and request for interim measures filed by the company RMC Info

> See decision of the Paris Court of Appeal, 4th June 2002. (The ruling was appealed to the Cour de cassation - Supreme Court of Appeals)