Recommendation 926 (1981)[1]

Questions raised by cable television and by direct satellite broadcasts

Parliamentary Assembly

The Assembly,

1. Having considered the report of its Legal Affairs Committee (Doc. 4756), and the opinion of its Committee on Culture and Education (Doc. 4782) ;

2. Considering that new technological developments, such as direct broadcasting satellites, cable television as well as distribution by cable, will have a considerable impact on the national broadcasting systems in Council of Europe member states;

3. Welcoming the fact that satellite broadcasting systems imply a multiplication of radio and television programmes, and will present excellent opportunities for the development of a permanent European co-operation on radio and television programmes ;

4. Recalling its many reports on the mass media, and in particular its Recommendation 747 (1975) on press concentrations, 748 (1975) on the role and management of telecommunications in a democratic society, and 834 (1978) on threats to the freedom of the press and television;

5. Recalling from this last recommendation especially :

the consideration "that freedom of the press and television, as a fundamental component of freedom of expression, is a prerequisite for a democratic political system, and that therefore the Council of Europe must contribute to safeguarding such freedom" ;

the call "for the enactment of national legislation, where still missing, governing broadcasts by satellite and by cable, as well as by local radio and television stations" ;

the belief "that statutes for the editorial staff of both written and audio-visual media, to be drafted nationally on the basis of guidelines set by the Council of Europe, could contribute to guaranteeing freedom of expression and information...";

6. Considering that Austria, Belgium, Canada, Denmark, Italy, the Netherlands, Spain, Switzerland and the United Kingdom are co-operating, under the supervision of the European Space Agency, to launch a European broadcasting satellite (L-Sat) in 1985 ;

7. Considering that France and the Federal Republic of Germany have already decided to institute operational broadcasting services using national satellites, whereas others such as Italy and the United Kingdom are studying the possibility of doing so;

8. Considering that Sweden is studying the launching of Tele-X, an experimental pre-operational satellite, in 1986, and that the five Nordic countries are considering a joint system for radio and television broadcasting, the so-called Nordsat project ;

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1. Assembly debate on 2 October 1981 (12th Sitting) (see Doc. 4756, report of the Legal Affairs Committee). Text adopted by the Assembly on 7 October 1981 (17th Sitting).

9. Considering that a number of private companies are planning to transmit commercial television programmes with direct broadcast satellites in two or three years' time ;

10. Considering that the World Administrative Radio Conference (WARC) of 1977 reached agreement on the principle of national areas of coverage for satellite transmissions with minimum overlap on the territory of other countries, but that, nevertheless, a considerable "spill-over" is inevitable ;

11. Considering that, as a consequence of the "spill-over", satellite television programmes, although directed at one of a number of central and western European states, may also be captured in at least 25 million homes outside national territory ;

12. Considering that, in accordance with the WARC decisions, no satellite broadcasts may take place without prior agreement of the state at which territory the broadcasts are primarily directed;

13. Considering that as a result of these developments the following dangers may arise :

13.1. national legislation may be undermined, as Council of Europe member states will have difficulty in applying their national laws to foreign television programmes ;

13.2. the intellectual property rights of authors, composers and performing artists may be affected especially by cable television ;

13.3. the independence of programme-makers vis-à-vis the state and commercial interests may be more severely threatened than at present, and thus the exercise of the freedom of expression may be further impeded ;

13.4. the same programmes may be broadcast to a large part of Europe and, mainly through the deterioration of the financial resources of existing broadcasting organisations and through the competition for viewers, the intellectual and cultural pluriformity in Council of Europe member states may decline ;

14. Considering that, in view of these dangers and of the rapid technological developments, it is necessary and urgent that European states cooperate to solve the legal problems raised by the transmission of television programmes through satellites and cable networks;

15. Considering that the measures to be taken both at national and international level should be on the broadcasting rather than on the receiving end, and that they may include the following :

15.1. safeguards for the application of national legislation for the protection of public health and morals, and for the application of penal law;

15.2. effective measures to guarantee that advertisers will comply with national and international provisions ;

15.3. if television channels are sold to commercial companies or to foreign countries, they should be made subject to the same regulations as domestic broadcasting organisations ;

16. Recalling Resolution No. Ill on cultural development and the electronic media, of the 3rd Conference of European Ministers with responsibility for Cultural Affairs (Luxembourg, 1981):

17. Desirous to protect adequately the rights of authors, composers and performing artists ;

18. Considering that further measures to be taken should safeguard :

18.1. the independence of those responsible for the programmes vis-à-vis the state ;

18.2. the independence of those responsible for the programmes vis-à-vis capital suppliers and advertisers ;

18.3. the clear separation between programmes and advertising ;

18.4. the integrity of commercial information by strict interdiction of hidden or misleading advertising and of subliminal messages ;

19. Considering that, in order to increase or safeguard pluriformity of television broadcasts, it may be indicated :

19.1. to take measures to guarantee the access of all political, social and cultural forces to the electronic media on fair and equitable terms;

19.2. to study the desirability and the possibilities of additional financing of broadcasting companies and television programmes by public means ;

20. Recalling the European Agreement for the prevention of broadcasts transmitted from stations outside national territories (1965) ;

21. Considering that the Council of Europe, embracing nearly all free and democratic countries in Europe, is particularly well-suited to deal with these questions, and that it has already studied some of them in the framework of its Steering Committee on the Mass Media and its subordinate committees which deal with the technological, economic, social, legal and human rights aspects,

22. Recommends that the Committee of Ministers :

a. instruct the Steering Committee on the Mass Media to study, in consultation with the other steering committees involved, the problems raised by cable television and by direct satellite broadcasting, in view of arriving at a European agreement :

1. on securing the artistic independence of programme-makers vis-à-vis the state and commercial interest ;
2. on concrete legal co-operation, possibly in the form of a convention;
3. on measures to educate the public, and especially young people, to appreciate and evaluate the media in question ;
4. on copyright and royalty questions ;
5. on a code of standards regarding programme content, acceptable also to broadcasting organisations ;

b. invite the member governments to scrutinise their national broadcasting and cable legislation to see whether it is in line with the principles mentioned above and adapt it if necessary.