COMMISSION DECISION

of 25 June 2007

on the compatibility with Community law of measures taken by Finland pursuant to Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

(2007/481/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities [1], and in particular Article 3a(2) thereof,

Having regard to the opinion of the Committee established pursuant to Article 23a of Directive 89/552/EEC,

Whereas:

(1) By letter of 22 September 2006, received by the Commission on 2 October 2006, Finland notified to the Commission measures to be taken pursuant to Article 3a(1) of Directive 89/552/EEC.

(2) The Commission verified, within a period of three months from this notification, that such measures are compatible with Community law, in particular as regards the proportionality of the measures and the transparency of the national consultation procedure.

(3) In its examination, the Commission took into consideration the available data on the Finnish media landscape.

(4) The list of events of major importance for society included in the Finnish measures was drawn up in a clear and transparent manner and a far-reaching consultation had been launched in Finland.

(5) The Commission was satisfied that the events listed in the Finnish measures met at least two of the following criteria considered to be reliable indicators of the importance of events for society: (i) a special general resonance within the Member State and not simply a significance to those who ordinarily follow the sport or activity concerned; (ii) a generally recognised, distinct cultural importance for the population in the Member State, in particular as a catalyst of cultural identity; (iii) involvement of the national team in the event concerned in the context of a competition or tournament of international importance; and (iv) the fact that the event has traditionally been broadcast on free television and has commanded large television audiences.

(6) A number of the events listed in the Finnish measures, including the summer and winter Olympic Games, the opening match, quarter-finals, semi-finals and final of the World Cup as well as the matches of the Finnish team in that tournament, fall within the category of events traditionally considered of major importance for society, as referred to explicitly in recital 18 of Directive 97/36/EC. These events have a special general resonance in Finland, as they are particularly popular with the general public, not just with those who usually follow sport events.

(7) The men's Ice Hockey World Championships, organised by the International Ice Hockey Federation (IIHF), have a special general resonance, as ice hockey is played actively by the Finnish people, and a generally recognised, distinct cultural importance for the Finnish population in view of the great success of the Finnish team in this international tournament. Because of their specific organisation, the Ice Hockey World Championships should be treated as a single event in which matches between other countries also affect the position of teams against which Finland must or may play and the overall result.

(8) The Nordic World Ski Championships (cross-country skiing, ski jumping and Nordic combined), organised by the International Ski Federation (FIS), have a special general resonance and a generally recognised, distinct cultural importance for the Finnish population as a catalyst of cultural identity, as Nordic skiing enjoys the status of a national sport in Finland.

(9) The listed athletics events, namely the World Championships in Athletics, organised by the International Association of Athletics Federations (IAAF), and the European Athletics Championships, organised by the European Athletics Association (EAA), have a generally recognised, distinct cultural importance for the Finnish population as a catalyst of cultural identity, as the top Finnish athletes representing Finland internationally in a wide range of individual disciplines are among the world elite in their specialities.

[1] OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC of the European Parliament and of the Council (OJ L 202, 30.7.1997, p. 60).

(10) The listed events have traditionally been broadcast on free television and have commanded large television audiences.

(11) The Finnish measures appear proportionate so as to justify a derogation from the fundamental EC Treaty freedom to provide services on the basis of an overriding reason of public interest, which is to ensure wide public access to broadcasts of events of major importance for society.

(12) The Finnish measures are compatible with EC competition rules in that the definition of qualified broadcasters for the broadcasting of listed events relies on objective criteria that allow actual and potential competition for the acquisition of the rights to broadcast these events. In addition, the number of listed events is not disproportionate so as to distort competition on the downstream free television and pay-television markets.

(13) The proportionality of the Finnish measures is reinforced by the fact that they have no retroactive effect and thus have no impact on the exercise of the broadcasting rights to listed events acquired before the date of their entry into force.

(14) The Commission communicated the measures notified by Finland to the other Member States and presented the results of this verification at the meeting of the Committee established pursuant to Article 23a of Directive 89/552/EEC of 15 November 2006. The Committee adopted a favourable opinion at this meeting.

(15) The Finnish measures were adopted on 22 February 2007 and entered into force on 1 March 2007,

HAS DECIDED AS FOLLOWS:

Article 1

The measures pursuant to Article 3a(1) of Directive 89/552/EEC notified by Finland to the Commission on 22 September 2006 are compatible with Community law.

Article 2

The measures, as finally taken by Finland and set out in the Annex to this Decision, shall be published in the *Official Journal of the European Union* in accordance with Article 3a(2) of Directive 89/552/EEC.

Done at Brussels, 25 June 2007.

For the Commission

Viviane REDING

Member of the Commission

ANNEX

Publication pursuant to Article 3a(2) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

The measures taken by Finland to be published pursuant to Article 3a(2) of Directive 89/552/EEC are as follows:

'GOVERNMENT DECREE ON

Television broadcasting of events of importance for society

Adopted in Helsinki on 22 February 2007

In accordance with the Government decision made on the submission of the Ministry of Transport and Communications, the following is enacted by virtue of section 20(3) of the Act on Television and Radio Operations (744/1998) given on 9 October 2003, as amended by Act No 394/2003:

Section 1

Events of importance for society

The following events are of importance for society in Finland, as referred to in Section 20(3) of the Act on Television and Radio Operations (744/1998):

1. The Summer and Winter Olympic Games, organised by the International Olympic Committee;

2. The opening match, quarter-finals, semi-finals and final of the Football World Cup, organised by FIFA (the Fédération Internationale de Football Association), and the matches of the Finnish team;

3. The opening match, quarter-finals, semi-finals and final of the European Football Championships, organised by UEFA (Union of European Football Associations), and the matches of the Finnish team;

4. The men's Ice Hockey World Championships, organised by the International Ice Hockey Federation (IIHF);

5. The Nordic World Ski Championships, organised by the International Ski Federation (FIS);

6. The World Championships in Athletics, organised by the International Association of Athletics Federations (IAAF);

7. The European Athletics Championships, organised by the European Athletics Association (EAA).

The opening match, semi-finals and final of the Football World Cup, and the matches of the Finnish team, the opening match, semi-finals and final of the European Football Championships, and the matches of the Finnish team, the semi-finals and final of the men's Ice Hockey World Championships, and the matches of the Finnish team, as referred to in subsection 1 above, must be broadcast wholly live.

Other events referred to in subsection 1 may be broadcast wholly or partially live or deferred.

Section 2

This Decree enters into force on 1 March 2007.

This Decree shall not apply to exclusive rights purchased before the entry into force of this Decree.

Helsinki, 22 February 2007.

Susanna HUOVINEN
Minister of Transport and Communications

Ismo KOSONEN
Director of Unit'