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Compilation of responses to the questionnaire on “Big Brother” type programmes

**Secretariat memorandum prepared
by the Directorate General of Human Rights**

Introduction

This document contains the compilation of responses to a questionnaire on “Big Brother” type programmes sent out last year by the Standing Committee.

Executive Summary

The issue of “Big Brother” type television programmes should be addressed in the light of Article 7 of the European Convention on Transfrontier Television, which states that television programmes shall respect the dignity of the human being and the fundamental rights of others.

The Standing Committee on Transfrontier Television prepared a questionnaire on this subject and sent it to broadcasting regulatory bodies in 19 member States, chosen because they were countries in which programmes of this sort had already been broadcast or soon would be.

The aim of the questionnaire was to find out whether, apart from in France, the broadcasting of reality shows had caused public opinion to react and, in particular, led to any recommendations by the relevant bodies or any other official stands being taken.

In France, the broadcasting of “Loft Story”, the French version of “Big Brother” that was shown long after versions in other countries, gave rise to serious controversy and the intervention of the CSA (Conseil Supérieur de l’Audiovisuel) which, through two recommendations, exercised strong control and urged the TV channel M6, which broadcast the programme, to comply with a series of conditions.

In its first recommendation of 2 May 2001, the CSA requested in particular that promotion of the programme on a satellite channel and the Internet should end, that the rules prohibiting any form of inducement to consume tobacco or alcohol be observed and, above all, that all excess that might undermine respect for human dignity be avoided.

In a second recommendation on 14 May, the CSA further held that whatever the programme’s objectives, and despite the fact that the participants had given their consent, in order to respect human dignity it was imperative that they should have places where, and times when, they were not under public observation.

This led to the introduction of two daily one-hour breaks when, if they wished, the participants could seek refuge from the cameras in the bedrooms.

In the same recommendation, the channel was requested not to focus on the exclusion and elimination of the participants: the viewers were therefore invited to vote not for the person they thought should be eliminated, but for the person they wanted to keep in the “Loft”.

The CSA even managed to secure changes in the contracts signed by the participants, on the grounds that they were contrary to human dignity. A decision by the Conseil d’Etat was cited in support of its argument. In particular, the clause providing renunciation by participants for an unlimited period of their rights regarding the use of their image, was changed to a maximum period of two years.

All that having been said, however, “Loft Story” does not seem to have led to any real violations of human dignity. Rather, it was light, inoffensive entertainment that gave the impression of being scripted and restrained, even though it was slightly more mischievous than the original “Big Brother” programme in that the aim was not to choose a single winner, but to form a winning couple who would then live together (still under the cameras) for 45 days in order to get their prize – a house.

It is also interesting to note that in the more recent versions of “Big Brother”, reality is increasingly giving way to entertainment: the images broadcast are carefully selected and, on terrestrial television, where there is very little live broadcasting, the programme is a production montage and content is therefore controlled.

Reactions in other of the countries consulted varied according to their sensibilities, culture and values, and also the way in which the programme developed. Although decisions to modify the programme were rare (apart from France, only the Turkish and Portuguese broadcasting authorities intervened), media and societal reactions were sometimes lively.

In Portugal, one of the countries in which the programme raised serious questions, the *Alta Autoridade para a Comunicação Social* made a recommendation on 16 May 2001 to the channel broadcasting the reality show “The Bar” because there had been a serious violation of ethical standards and legal provisions as well as rights and values.

The same channel and the channel that broadcast “Big Brother” were then fined for broadcasting erotic sequences before 10h00 pm in the television news, and for broadcasting programmes which did not respect human dignity and exerted a negative influence on certain television viewers (children and vulnerable people), thereby contravening a number of provisions of the Law on Television. The channels were even threatened with being suspended from broadcasting for a period of up to two months.

The broadcasting authority is conducting negotiations with the channels with a view to the setting up of a self-regulating body on the content of reality shows.

Another country where the broadcasting of “Big Brother” led to serious controversy was Turkey, where the programme was judged to be contrary to family values and respect for private life, in addition to having a bad influence on young people. Under the law on the establishment of radio and television companies and their programmes, the Radio and Television Supreme Council banned the channel on which the programme was being shown from broadcasting for one day and brought the matter before the courts (however, enforcement of the ban has been postponed pending an expert opinion).

In an official statement on 22 March 2001, the National Broadcasting Council of Poland strongly attacked programmes of this sort for being socially destructive and exerting an unfavourable influence on the viewpoints, attitudes and values of some television viewers. The National Council, considering the behaviour of the participants to be contrary to the positive cultural role that television can and must play, undertook to monitor the broadcasting of these programmes and ensure that they complied with the law on radio and television.

In the United Kingdom, the ITC (Independent Television Commission) modified the Programme Code, providing that broadcasters should respect human dignity and that “individuals should not be exploited needlessly or caused unnecessary distress, nor should the audience be made to feel mere voyeurs of others’ distress”. On the whole, however, the programme was considered to be “light entertainment”.

In Germany, there was controversy before the programme was broadcast: politicians called for intervention by the broadcasting authority, the DLM, suggesting that it should declare “Big Brother” unconstitutional on the grounds that it violated human dignity. The authority

did not deem it necessary to intervene, but persuaded the production company to allow the participants one hour's privacy each day.

This controversy gave "Big Brother" a great deal of publicity and guaranteed its later success, which, however, did not prove to be lasting: the many subsequent reality shows that have been broadcast have not met with the same enthusiasm.

In Spain, a number of informal measures, the contents of which were kept confidential, were taken to counter the racist and sexist views aired by one of the participants, who had to leave the house as a result.

In Hungary, the monitoring department of the National Commission for Radio and Television is taking a close look at a reality show, "The Bar", following a complaint from a member of the public.

Attention should be drawn to a very serious event that occurred in Sweden: a participant in the "Expedition Robinson" programme (renamed "Survivor" in other countries) committed suicide after being eliminated, an indication of the effect that the pressure exerted by this sort of programme can have on individuals with weak personalities.

Most of the discussion focuses on "Big Brother", which is the best-known reality show, but there are numerous variations, some of which are worth mentioning, particularly a programme entitled "Chained" (or "Chains of Love") in which four men are chained to one another hand and foot, with a woman as their jailer (or four women chained and a male jailer), and have to spend the whole day, and night, together.

Another example is "Boot Camp", a pseudo commando training camp where the participants underwent tough physical and psychological ordeals (for example, they were deprived of sleep for 47 hours) and, on top of that, had to face "mental" challenges.

This programme highlighted sadism, physical suffering and military fanaticism.

On the other hand, there are versions in some countries that have a number of interesting aspects, playing what could be called an educational role and stimulating discussion. These include programmes that reproduce the living conditions of bygone times (the Iron Age, the 1930s, or the Victorian era in the United Kingdom and primitive conditions in a forest in Germany). An Austrian experiment has also proved very positive: the participants in the "Taxi Orange" reality show worked as taxi drivers, which gave them the opportunity to discuss subjects of public interest, thereby stimulating interesting debates on the situation in the country.

In conclusion, the "Big Brother" programme is, in itself, inoffensive. However, there are many variations on this theme which, in certain cases, seem to have overstepped the limits of what television should be able to offer its audience.

RESPONSES

The Portuguese High Authority for the media takes a stand on reality shows

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

The day after the live broadcast, the High Authority issued a recommendation stating that SIC had infringed in a grave way ethical/legal parameters and fundamental rights and values. The High Authority recommended immediate compliance with the Television Law (Law 31-A/98 of 14 July). Six days after issuing the recommendation, the High Authority determined that both SIC (which broadcast Bar da TV) and the other terrestrial private channel, Televisão Independente de Comunicação (the broadcaster of “Big Brother”), should be fined. According to the High Authority, TVI was to pay a financial penalty for broadcasting explicit sex before 10 pm. SIC, on the other hand, was fined for infringement of Article 21, paragraphs 1 and 2 of the Television Law. Paragraph 1 forbids any transmission that violates fundamental rights, liberties and guarantees, or which infringes human dignity or acts as an incentive to crime; paragraph 2 states that broadcasts that might have a negative influence in the development of children and young people's personality or might have a negative influence on vulnerable audiences, namely due to the exhibition of shocking or violent images, should be preceded by a clear advertence, should have a permanent adequate symbol (small ball on the up right corner), and should only take place after 10 pm. Furthermore, the High Authority has asked the State Prosecutor to examine whether crimes were committed during the broadcast of the family row between Margarida and her parents, and to act accordingly.

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

The Radio & Television Supreme Council of Turkey takes action against a reality show

Following the “Big Brother” phenomenon, shows of this type are attracting wide interest in Turkey as well as causing controversy. The Turkish version of “Big Brother” called “Somebody is Watching Us” ended with heated arguments about its contribution to the loss of family values, voyeurism, invasion to the right of privacy and exhibitionism.

“Somebody is Watching Us” was broadcast by a commercial channel, SHOW TV, between February and May 2001. The programme was on air every day approximately for an hour except on Sundays, when a summary was given. For 100 days, eight women and seven men

shared a house equipped with cameras. During the day, they worked as taxi-drivers, also equipped with cameras. Each week one of the contestants was eliminated from the competition following audience voting. After 100 days, the finalist won an enormous sum of money. The programme was also broadcast live 24 hours a day on the web site of the channel.

When “Somebody is Watching Us” first started it was difficult to predict the possible audience reactions given that it was the first programme of its kind. There was a “curiosity” period because of the novelty for Turkish viewers. This being said, certain people voiced concerns as to the programme being an example of global exhibitionism. During the period March-April 2001, “Somebody is Watching Us” received 59% of all complaints. Complaints were basically on the structure of the programme: accusing it of affecting young people negatively, the sole aim of the programme being to exhibit private life for the winning of money and the competition, thus degenerating Turkish family values. The Radio and Television Supreme Council acted on “Somebody is Watching Us” on these grounds and under Article 4(d) of the Law No 3984 on the Establishment of Radio and Television Enterprises and their Broadcasts, which states that “broadcasts shall not violate general moral, social order and Turkish family values”. The Council imposed a one-day broadcasting suspension penalty to the channel. An appeal before the courts against the decisions of the Supreme Council is possible and SHOW TV has obtained a postponement of the execution order from the court until an expert opinion has been established.

Ethical discussions aside, some of the “Somebody is Watching Us” contestants have become famous and have started a career in show business. Tarık, one of the contestants, has produced his own CD and is starting a musical career. Some of the others have embarked upon an acting career in television.

National Broadcasting Council (Poland)

In an official statement of 22 March 2001, the National Broadcasting Council considers that programmes like “Big Brother” or other programmes of a similar nature can be socially damaging. These broadcasts, being in fact a glorification of confession/disclosure under “coercion”, stupidity, boredom and primitivism, show and, even worse, promote attitudes and behaviours that may have a significant, in the NBC’s opinion, decidedly unfavourable effect on moulding the views, attitudes and standards of behaviour of some viewers.

People with minimum intellectual needs, loose family and social ties, become embedded in the minds of the masses and heroes of the general public. Showing such behaviours is in contradiction with the cultural and positive role which television can have.

Against this background, the National Broadcasting Council will monitor the broadcasting of such programmes very scrupulously, paying particular attention that they respect the provisions of the Radio and Television Act.

Council for Radio and TV Broadcasting (Czech Republic)

In the Czech Republic, no original programme of this type has been aired so far. But the cable retransmission of German programmes as well as transmissions of these programmes via satellite can be seen in the country. The latter are also accessible on web sites. No public

interest or debate has occurred so far, nor have there been any signs of the intentions of broadcasters as regards these programme types. This is why the Czech Broadcasting Council has not adopted any official position on the matter.

Independent Complaints Commission - UBI/AIEP (Switzerland)

In Switzerland, the commercial broadcaster TV3, which is transmitted in the German part of the country, has already broadcast two versions of “Big Brother”. The independent Radio and Television Complaints Authority, which only acts upon complaints, has not taken any action because there have been no complaints against these programmes. The same broadcaster is going to run two new games based on the same concept of “real TV” next autumn: “Die Bar”, a format from Sweden, and “Popstar”, from Germany.

Audiovisual Council of Catalonia – CAC (Spain)

The second edition of “Gran Hermano” (the Spanish “Big Brother”) has once again attracted the attention of television viewers, as well as raised a public debate on the limits and legitimacy of certain TV formats. The Catalonia Broadcasting Authority (CAC) understands that this debate can not be based on ethical or aesthetic criteria, which are always subjective and therefore a matter of opinion, and that the key element must be the respect of basic constitutional rights and freedoms and of the fundamental values of the legal system.

Since there is no regulatory authority in Spain at the national level, the Catalonia Broadcasting Authority, concerned by the potential harm to the private life/privacy of persons, and at the same time with a view to preserving the open character of such games has decided to:

- start a legal report on the possibility of limiting personal privacy and the marketing of it,
- urge the Ministry of Science and Technology to obtain from the broadcasters and the production companies involved in producing such programmes, copies of the legal contracts binding the participants to these companies.

Independent Television Commission (ITC)

“Big Brother” was broadcast by Channel 4 during the summer of 2000. Towards the end of the series, the programmes attracted around 9 million viewers but the version shown in the United Kingdom did not provoke many complaints. The ITC only received around 25 complaints for the whole series, most of these concerned the language and technical problems with the website.

The ITC's public comment on “Big Brother” was published in the 2000 Annual Report: “Opinions may vary on whether this “reality TV” format, originated in the Netherlands and brought to the UK by Channel 4, was exploitative, or merely good fun. No serious complaints were received by the ITC, and none from the participants. It proved compelling to viewers, 9.5 million watched the final outcome. During the weeks the series ran, Channel 4's share of viewing increased to 11.6 per cent, compared with 10.7 the previous year.

“Big Brother” attracted 185 million page impressions to its website; hits on the live pictures requests for streaming live pictures peaked at four million on the day of the eviction of Nasty Nick”.

Another series of “Big Brother” has just started. It does not appear to have provoked any response from the public so far, but this edition will have to conform to the new version of the Programme Code¹. This has recently been updated to take into account the provisions of the Human Rights Act.

National Commission for Radio and Television, ORTT (Hungary)

In Hungary there is only one “reality type” TV programme, called “Bar”. It is broadcast by a local station in the Budapest region and has a very small audience (around 10,000 persons each broadcast).

In consequence, the programme has not yet triggered a lot of public discussion in Hungary. No complaint has been addressed so far to the National Commission on Radio and Television (ORTT), and the latter has therefore not yet adopted an official position on this matter.

Superior Audiovisual Council (French-speaking Community of Belgium)

No programme of this type has yet been broadcast in the French-speaking Community of Belgium. Nevertheless, given the large public debate in France following the broadcasting of “Loft story” on the M6 channel, the CSA has decided to set up a working group on human dignity in new programme formats, which started its work on 13 June 2001.

Telecommunication Administration Centre-TAC (Finland)

This type of programme has not yet been broadcast in Finland, and therefore the TAC has no experience in such programmes.

¹ The ITC Programme Code, section 1.8 paragraph 1: "Viewers have a right to expect that licensed services will reflect their responsibility to preserve human dignity, as far as possible, in respect of both individuals and individuals as members of groups. Individuals should not be exploited needlessly or caused unnecessary distress, nor should the audience be made to feel mere voyeurs of others' distress"