

**DRAFT RECOMMENDATION No. R (2004) ... OF THE
COMMITTEE OF MINISTERS TO MEMBER STATES**



**ON THE RIGHT OF THE PUBLIC TO INFORMATION ON MAJOR EVENTS
WHERE EXCLUSIVE RIGHTS HAVE BEEN ACQUIRED**

**(Adopted by the Committee of Ministers on ...
at the ... meeting of the Ministers' Deputies)**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Bearing in mind the fundamental right to freedom of expression and information, as guaranteed by Article 10 of the European Convention on Human Rights, and recalling in this respect its Declaration of 29 April 1982 on freedom of expression and information;

Bearing also in mind Article 9 of the European Convention on Transfrontier Television;

Noting the crucial importance of the media and news agencies in informing society about matters of public interest, in particular in the context of major events;

Aware of the fact that the right of the public to information on major events must be reconciled with the property or other rights of events organisers, of the owners of the premises where the events take place, as well as of authors and other rights holders to such events, bearing in mind the limitations which may be placed on these rights under the relevant international instruments;

Bearing also in mind its Recommendation No. R (91) 5 on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context;

Noting that, since the adoption of the above Recommendation, a number of developments have taken place making it necessary to take account, ~~over and above~~ **in addition to** television, of ~~the~~ other media, **notably** press, ~~and~~ radio ~~as well as news agencies~~ and new information services on electronic communication networks, **as well as the role of news agencies**, in order to guarantee the public's right of access to information;

Noting, in particular, the increasing commercialisation of rights to major events and the risk this can pose to public access to news;

Recommends the governments of the member States to take measures, where necessary, to safeguard the public's right of access to information on major events where exclusive rights have been acquired, whether in a national or transfrontier context, taking into account the principles set out below; to bring these principles to the attention of the professional and industrial circles concerned, and to evaluate regularly the effectiveness of the implementation of these principles.

Decides that in due time, it will evaluate the situation with a view to determining whether the principles defined in this Recommendation address in an adequate manner the question of the right of access of the public to information on major events where exclusive rights have been acquired, so as to take, as appropriate, any new initiative which it may consider necessary to guarantee this right.

Definitions

For the purposes of this recommendation:

"Provider of news service" means any person who offers on a professional basis a news service to the public, in the form of texts, images and/or sounds, whether in return for remuneration or not.

"Exclusive rights" means the rights held ~~by the primary rights holder or acquired contractually by a provider of news service from the organiser of a major event and/or from the owner of the premises where the event is taking place, as well as from the authors and other rights holders,~~ with a view to the exclusive coverage of ~~the~~ **an event in a particular medium and** for a given geographical zone.

"Major event" means any event ~~in to~~ which ~~a primary rights holder holds~~ **are held** and which is reasonably considered by one or more providers of news services as being of high interest for its (their) public.

~~"Primary~~ **Exclusive rights holder**" means any **natural or legal** person who ~~holds is able to exercise exclusive rights to the coverage of a major event and who which~~ might prevent news reporting on ~~a major that~~ event.

~~"Audiovisual short report" means brief sequences of moving images, whether or not accompanied by sound, about a major event enabling the public of a provider of news service to have a sufficient overview of the essential aspects of this event.~~

"Information Society news services" means services providing, on a professional **and continuous** basis, news at a distance, by electronic means and at the individual request of the recipient, whether in return for remuneration or not, such as notably news delivered by on-line services and mobile telephone services.

Principles

Principle 1 – General conditions for the exercise of the public's right to information

1. Subject to other contractual agreements between the parties concerned which would secure the public's right to information, the exercise of ~~the~~ exclusive rights of the ~~primary~~ **exclusive** rights holder should be subject to limitations in accordance with the terms and conditions set out hereafter, so that providers of news services can provide information to the public on a major event.

Principle 2 – Written press and radio

2. As a rule, professionals from the written press and radio should have access to the premises where major events take place in order to be able to prepare texts, take photographs or make radio news reports, so as to provide the public with information relating to the event in their newspapers or magazines or in their radio programmes.

3. The events organisers and the owners of the premises where the events take place should allow professionals from the written press and radio sectors to access the premises where the major event is taking place, subject only to respect for **privacy and** security measures which may be reasonable and to the capacity of the venue, provided that sufficient access is allowed, where necessary using pooling arrangements.

4. No financial participation should be required from professionals from the written press and radio for access for news reporting purposes. At the same time, the event organiser or the owner of the premises should have the possibility to require them to pay possible additional expenses linked to the setting-up of dedicated infrastructures. These expenses should be clearly defined, correspond only to the cost of the service and exclude any form of profit for the organiser of the event.

Principle 3 – Television

5. The right of television broadcasters to report on a major event should be governed, both at the national and transfrontier levels, by the principles set out in Recommendation No. R (91) 5 on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context.

Principle 4 – News agencies

6. Where news agencies wish to report on a major event by means of texts, still photographs or sound, they should have access to the premises where this event is taking place, along the same lines as the media from the written press and radio and have the right to disseminate the resulting content for print or radio news purposes.

7. Where **television broadcasters depend on** news agencies ~~provide an essential service to television broadcasters~~ for **general news provision purposes**, **these agencies should have the** ~~their~~ right to report on a major event by means of sequences of moving images, whether or not accompanied by sound, ~~should be guaranteed~~ in accordance with the principles set out in Recommendation No. R (91) 5 above and ~~be~~ subject to the same conditions. Where a news agency exercises the right granted under this principle, it should also assume the responsibilities incumbent on secondary broadcasters under the same Recommendation, both in its own dealings and those of the television broadcasters that it serves.

Principle 5 - Information Society news services

8. Where providers of Information Society news services wish to report on a major event by means of texts, still photographs or sound, they should have access to the premises where this event is taking place, along the same lines as the media from the written press and radio and have the right to disseminate the resulting content on these services. This right may be restricted to protect the legitimate interests of rights holders, notably in relation to the length of reports, live reports and the use of the material beyond a 24-hour period.