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Press and Information

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Judgment of the Court of Justice in Case C-306/05

Sociedad General de Autores y Editores de España (SGAE) v Rafael Hoteles SA

THE DISTRIBUTION OF A SIGNAL BY MEANS OF TELEVISION SETS BY A HOTEL TO ITS CUSTOMERS IS PROTECTED BY COPYRIGHT

The private nature of hotel rooms is irrelevant

The directive on copyright in the information society¹ provides that authors have the exclusive right to authorise or prohibit any communication to the public of their works, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

The SGAE (the body responsible for the management of intellectual property rights in Spain) took the view that the use of television sets and the playing of ambient music within the hotel owned by Rafael involved communication to the public of works belonging to the repertoire which it manages. Considering that those acts gave rise to breach of copyright, SGAE brought an action before the Spanish courts. The Audiencia Provincial (Provincial Court) of Barcelona referred the matter to the Court of Justice.

The Court points out, first, that the concept of ‘communication to the public’ must be interpreted broadly in order to achieve the principal objective of the directive, that is to establish a high level of protection in favour, amongst others, of authors, allowing them to obtain an appropriate reward for the use of their works, in particular when these are communicated to the public.

It is necessary to take into account the fact that, usually, hotel customers quickly succeed each other. As a general rule, a fairly large number of persons are involved, so that they may be considered to be a public, having regard to the principal objective of the directive.

¹ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, p. 10).

While the mere provision of physical facilities does not as such amount to communication within the meaning of the directive, the installation of such facilities may nevertheless make public access to broadcast works technically possible. Therefore, **if, by means of television sets thus installed, the hotel distributes the signal to customers staying in its rooms or present in any other area of the hotel, a communication to the public takes place, irrespective of the technique used to transmit the signal.**

It is also apparent from the **directive on copyright in the information society that the private or public nature of the place where the communication takes place is immaterial, as the directive requires authorisation by the author for communication by which the work is made accessible to the public** and not for retransmissions in a public place or one which is open to the public.

Moreover, the right of communication to the public covers the making available to the public of works in such a way that they may access them from a place and at a time individually chosen by them. Consequently, that right of making available to the public and, therefore, of communication to the public would clearly be meaningless if it did not also cover communications carried out in private places.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: ES, CS, DE, EN, FR, HU, PL, SK, SL

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=FR&Submit=rechercher&numaff=C-306/05>

It can usually be consulted after midday (CET) on the day of delivery.

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