



ISP in France : some details on the legal status of host

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In three February 17, 2011 decisions concerning editors of the websites Dailymotion, Fuzz and Amen, the Cour de cassation outlined the terms under which technical service providers could enjoy the favourable status of host in the meaning of article 6 I 2e of the June 21, 2004 law referring to trusting digital economy (LCEN).

In a [first decision](#) relating to Dailymotion the video sharing website, the Cour de cassation considered that the encrypting and formatting of videos supplied to Internet users «are technical operations inherent to the services provided by a host and in no way lead to the selection by him of the content put online ».

The Court adds, opposite to its [January 14, 2010 decree](#), that «exploiting the website through selling advertisement spaces does not mean the service has the capacity to control the content put online», and hence the provider must claim the status of host. This should put an end to a somewhat questionable case-law and may stop free hosting.

In a [second decision of February 17, 2011](#), the Cour de cassation decided that the company that created the website called « fuzz.fr », and that integrated RSS flux edited by third parties, should be qualified as host under the grounds that «it only structured and classified information made available to the public to make the use of its service easier» and «in no way was the author of the headings or hypertext links, nor did it determine or check the contents of the website » and therefore «had no active role in the knowledge of or control over the data stocked».

In a [third decision of February 17, 2011](#), the Cour de cassation reminds that the liability of the host can be engaged only if he did not act promptly upon receiving a notification, which must imperatively bear the words stipulated by article 6-I-5 of the LCEN.

Almost 8 years after it was adopted, at last some light is thrown on the LCEN.

Benjamin JACOB

Partner at PDGB Lawfirm

benjamin.jacob@pdgb.com

<http://www.pdgb.com>