[FR] Product Placement on Television

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Conseil Supérieur de l'Audiovisuel (CSA - government body monitoring The solemn warning from the broadcasting) to the chairman of France Télévision on 8 September in respect of further cases of product placement noted on the channels France 2 and France 3 in regard of a number of press titles raises the question of regulations to cover this type of practise.

The Decree of 27 March 1992, which lays down regulations for advertising on television and transposes the "Television without Frontiers Directive" into French law, prohibits product placement, defined as "the representation in words or pictures of goods, services, the name, the trade-mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the http://services.obs.coe.int/en/index.htm broadcaster to serve as advertising". If, other than during advertisement slots, goods, services or trade-marks are presented for their promotion and not for the information of viewers, this constitutes an infringement likely to justify intervention on the part of the CSA, regardless of whether the promotion was intentional and done in return for payment or for similar consideration.

The CSA, by virtue of Article 42-1 of the Act of 30 September 1986, has authority to penalise authorised television channels which do not respect the obligations imposed on them by the texts of legislation and regulations. Product placement indeed constitutes the most frequent infringement noted by the CSA; since the 1992 Decree came into force, twelve official notices and three penalties have been issued on the basis of this infringement, without counting the many reminders, like the one the CSA has just issued to France Télévision.

The Conseil d'Etat recently confirmed that the CSA was right in fining the company M6 for the many times it had infringed the regulations on product placement.

After serving formal notice on the channel to put an end to all product placement, particularly in respect of products for which advertising was not allowed on television such as the written press, the CSA had noted further cases of failing to abide by the prohibition in a number of broadcasts (deliberate presentations of a video cassette produced by M6, a printed magazine and a brand of vehicle). A sanction procedure was then instigated against the channel, involving a fine of FRF 780 000; the senior administrative judge deemed that "in view of the

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repeated failings noted and the advantages received by the company M6 for its failings, the CSA has not been wrong in estimating the amount of the fine".

Conseil d'Etat, 18 mai 1998, Société M6, requête n°178765.

State Council, 18 May 1998, Company M6, petition No 178765.

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