[IT] Application of EC Rules on the Transmission of Advertising

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In its judgement of 23 December 1999 the Tribunal of Rome rejected a complaint lodged by the public broadcaster RAI against the private competitor RTI for violation of the EC and national rules on the transmission of advertising.

In its complaint, RAI accused RTI of "unfair competition" since some practices followed by RTI in the transmission of advertising on its three channels were considered to be in violation of the rules included in the "Television without Frontiers" Directive and of the national rules implementing it. In particular, RAI alleged that RTI does not observe the norms concerning the maximum amount of advertising allowed per day and per hour, as well as the rules concerning the insertion of advertising in the transmission of programs like sport events (for instance, football matches, interrupted during half-time) or cinematographic works. According to RAI, these practices cause distortions to the market giving RTI a competitive advantage. Accordingly, it asked the Tribunal to issue an injunction ordering its competitor to dismiss those practices. RAI also maintained that the acquisition of the exclusive rights to transmit the matches of the Champions League had to be considered an act of unfair competition, since UEFA did not negotiate with other possible bidders, including RAI, which had shown an interest in the acquisition of those rights.

The Tribunal dismissed the action. It held that the violation of the rules concerning the insertion of advertising during programmes as well as of the rules limiting the amount of advertising did not, in itself, give rise to an act of unfair competition since those rules are not intended to protect competitors, but rather viewers and rights owners such as the authors. RAI immediately lodged an appeal against the decision, to be heard before the same Tribunal sitting in chamber.

Judgement of 23 December 1999, case n. 79434/1999, RAI v. RTI.

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