[FR] Advertising on Television for Internet Sites Questioned

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Amélie Blocman
Légipresse

Advertising on television for literary works, the cinema, the press and distribution sector is at present prohibited by Article 8 of the Decree of 27 March 1992. This restriction was originally justified basically by the desire to protect certain media, and in particular the written press, from a migration of advertisers to television. Thus the prohibition as regards distribution was intended specifically to maintain the financial advantage enjoyed by the regional daily newspapers. It was also important to prevent the major groups in the sectors concerned from being the only ones able to have access to advertising supports. This is the case for literary publishing, the press and more particularly for the cinema, where television advertising could favour the producers and distributors of American films capable of mobilising larger budgets than their French counterparts for promoting their films.

A number of companies editing Internet sites referred their conditions of access to television advertising to the Conseil supérieur de l'audiovisuel (CSA), which deliberated on the matter at its plenary assembly on 22 February. The CSA considered that "the activities of Internet sites constituted a new and specific economic sector" and decided that the restrictions on access to television advertising stipu-lated in the 1992 Decree for the press, distribution, cinema and publishing sectors should not be applicable to them. The CSA stated moreover that it would study the matter again in the light of the evolution of this new market, its international scale and the appli-cable texts after an experimental period of eighteen months.

This decision - the first taken by the CSA on regulating the Internet - has been roundly criticised by professionals in the press, cinema and radio sectors, who criticise the lack of consultation and the contradiction of the measure with the spirit of the regulations. Some even feel that the CSA has overstepped its powers. In accordance with Article 27 of the Act of 30 September 1986, amended, only decrees adopted by the Conseil d'État may determine the general principles defining obligations concerning advertising. The Conseil constitutionnel indeed recalled in 1989 that the CSA did not have regulatory powers but merely powers to interpret the texts in force. The Minister for Culture and Communication for her part felt that the CSA's decision to authorise television advertising for all Internet sites did not correspond with the discussions between the Government and the CSA and she therefore asked the CSA to "think again and weigh up the

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consequences" of this decision for the various sectors concerned. The CSA duly took note, and decided on 29 February to extend to all the parties concerned its consultation on the practicalities of implementing its decision, in order to define the conditions of application likely to avoid any direct sale of products or services, prohibited by Article 2 of the 1992 Decree, and any indirect or disguised advertising for sectors for which television advertising remained prohibited (alcohol, tobacco, political advertising and the sale of prescription medicines), unless the Assembly makes use of the second reading of the audiovisual bill to deal with the matter on 21 March.

Communiqué n° 414 du CSA du 22 février 2000, Accès des sites Internet à la publicité télévisée; Communiqué n° 416 du 29 février 2000, Concertations en vue de la mise en oeuvre de l'accès des sites Internet à la publicité télévisée.

CSA release no. 414 dated 22 February 2000 – Access to television advertising for Internet sites; CSA release no. 416 dated 29 February 2000 – Consultation with various parties with a view to the implementation of access to television advertising for Internet sites.

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