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

IRIS 2000-5:1/12

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In its judgement of 23 March 2000 the Tribunal of Rome, sitting in chamber, confirmed the decision reached on 23 December 1999 by the same Tribunal (sitting with a single judge) on a complaint lodged by the public broadcaster RAI against the private competitor RTI for violation of EC and national rules on the transmission of advertising (see IRIS 2000-1: 10). Before the first judge, RAI asked for an injunction ordering the private broadcaster to cease advertising practices considered inconsistent with the above mentioned rules.

Again without considering the merits of the complaint, The Tribunal dismissed the reclamo (appeal) of RAI upholding the interpretation given by the first judge, according to which the violation of the rules concerning the insertion of advertising during programmes as well as of the rules limiting the amount of advertising does not, in itself, give rise to an act of unfair competition since those rules are not directly aimed at protecting competitors, but rather viewers and rights owners such as the authors. The Tribunal also held that competitors are not to be considered "third parties directly affected" by violations of the substantive provisions according to Article 3, paragraph 3 of the Television without Frontiers Directive, as amended by Directive 97/36/EC.

Judgement of the Tribunale of Rome, of 23 March 2000, case n. 79434/1999, RAI v. RTI.

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