[IT] New Regulation on Advertising and Teleshopping in Force

IRIS 2001-9:1/21

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On 8 October 2001 a new Regulation on advertising and teleshopping adopted on 25 July by the Autorità per le garanzie nelle comunicazioni (the Italian Communications Authority) pursuant to the Istituzione dell'Autorità per le Garanzie nelle Comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo (the Communications Act) of 31 July 1997, no. 249 (see IRIS 1997-8: 10), will enter into force.

The Regulation represents the final step of a procedure begun on 10 March 2000 with the launch of a public consultation (see IRIS 2000-9: 10). It applies to all radio and television broadcasters, public and private, national and local, which fall under Italian jurisdiction according to the principles of European Community law (articles 1 and 2). In addition to some provisions recalling the wording of "Television Without Frontiers" Directive 89/552/EEC, as amended ("the Directive"), it introduces new measures on the separation of programmes and advertising and on the insertion of advertising during programmes (articles 3 and 4).

Advertising and teleshopping shall be readily recognisable as such and kept separate from other parts of the programme service by optical (on television) or acoustic (on radio) means which have to be inserted at the beginning and at the end of the programme. During the TV broadcasting of advertising and teleshopping, the screen has to show the signs "pubblicità" and "televendita" respectively.

Other measures to ensure the application of the separation principle are as follows:

- programme anchorpersons may not present telepromotions as defined in the RTI case (ECR 1996, I-6471 - see IRIS 1997-1: 7) and teleshopping in the same context as the programme they are fronting;

- advertising which is broadcast before or after a cartoon programme may not use characters of the same cartoon;

- advertising and teleshopping imitating or making a parody of the feature of a particular programme may not be broadcast before or after the programme they imitate or parody.

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During the transmission of sports events, advertising and teleshopping spots shall only be inserted during the intervals which are foreseen by the official game regulation of the event being broadcast or during the pauses of the game, provided that the advertising break does not interrupt the transmission of the sports action in progress. The calculation of the scheduled duration of a programme for the purposes of article 11, paras. 3 and 5, of the Directive is made according to the gross principle, while the net principle applies to the calculation of the twenty-minute interval that should elapse between each successive advertising break within a programme, according to article 11, para. 4, of the Directive. Cartoon programmes, either broadcast autonomously or within children's programmes, may never be interrupted by advertising or teleshopping breaks, with the exception of feature or TV films, which fall under the general rule of article 11, para. 3, of the Directive.

In case of non-compliance with the rules laid down by the Regulation, the Communications Authority may apply fines ranging from circa EURO 10,000 to EURO 150 million pursuant to article 2, para. 20, lit. c), of the Norme per la concorrenza e la regolazione dei servizi di pubblica utilità. Istituzione delle autorità di regolazione dei servizi di pubblica utilità (the Regulatory Authorities Act) of 14 November 1995, n. 481, and to article 1, para. 31, of the aforementioned Communications Act.

Autorità per le Garanzie nelle Comunicazioni, Delibera n. 538/01/CSP, Regolamento in materia di pubblicità radiotelevisiva e televendite, Gazzetta Ufficiale of 8 August 2001, Serie Generale no. 183

http://www.agcom.it/provv/d_538_01_CSP.htm

Regulation of the Autorità per le Garanzie nelle Comunicazioni of 25 July 2001, no. 538/01/CSP, Regulation on Advertising and Teleshopping, Gazzetta Ufficiale of 8 August 2001, Serie Generale no. 183

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