EFTA Court: Advertising Freedom Acknowledged

IRIS 1995-8:1/16

Ad van Loon
European Audiovisual Observatory

In its advisory opinion of 16 June 1995, the EFTA Court has ruled that the «Television without Frontiers» directive (89/552/EEC of 3 October 1989) - which is integrated into the EEA Agreement - must be interpreted as precluding a general prohibition imposed on an advertiser, whereby he is prevented from showing an advertisement contained in a television programme of a broadcaster established in another EEA State. The prejudicial question to the EFTA Court arose as a result of a disagreement between the Norwegian Consumer Ombudsman and the Norwegian subsidiary companies of Mattel and Lego. The toy-manufacturers had been showing their commercials, which were contrary to Norwegian legislation, on TV3. TV3 is established in the UK and broadcasts via satellite television programmes that are specifically directed at Norway. The Consumer Ombudsman requested Lego and Mattel Norway to refrain from broadcasting the commercials in the future. The EFTA Court held that Lego and Mattel were not bound by the Norwegian national prohibition of commercials which target children, since their commercials were broadcast by a broadcaster that is established in another EEA State. The directive's transmitting state principle (Article 2 (2)) entails that the broadcaster has to comply with the relevant legal framework of the transmitting state. The commercials on TV3 were in accordance with British legislation. The receiving member states - including Norway - must provide freedom of reception and refrain from restricting retransmission on their territory of television broadcasts emanating in other member states. The Court furthermore held that the Directive lays down rules for broadcasters as well as advertisers. Advertising directed specifically at the receiving state only, falls within the scope of the directive, according to the EFTA Court.

Decision of the EFTA Court of 16 June 1995, joined cases E-8/94 and E-9/94, Forbrukerombudet v. Mattel Scandinavia/Lego Norge.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026