

[IE] Religious Advertising

IRIS 2003-2:1/17

*Marie McGonagle
School of Law, National University of Ireland, Galway*

The issue of religious advertising on radio and television arose again in Ireland towards the end of 2002. Ironically, it happened at a time when a hearing was pending before the European Court of Human Rights in the Roy Murphy case (see IRIS 1998-1: 6 and IRIS 1998-7: 9). The hearing in that case, which involved an advertisement for the showing of a video about the Resurrection, took place in November 2002, and the decision of the European Court of Human Rights is expected in February 2003. The ban on religious advertising had formed part of earlier broadcasting legislation but was modified slightly in the Broadcasting Act, 2001 (see IRIS 2001-4: 9 and IRIS 2001-7: 9). The modification resulted from the Roy Murphy case and another incident involving the rejection of an advertisement for the Irish Catholic newspaper. Section 65 of the 2001 Act provides that nothing in the existing provisions (s.20(4) of the Broadcasting Authority Act, 1960 and s.10(3) of the Radio and Television Act, 1988) "shall be construed as preventing the broadcasting of a notice of the fact - (a) that a particular religious newspaper, magazine or periodical is available for sale or supply, or (b) that any event or ceremony associated with any particular religion will take place, if the contents of the notice do not address the issue of the merits or otherwise of adhering to any religious faith or belief or of becoming a member of any religion or religious organisation".

On foot of that amendment, Radio Telefís Éireann (the national public service broadcaster, RTÉ) initially accepted advertisements for a campaign, called "Power to Change", which was backed by prominent business figures. The campaign was interdenominational and endorsed by the four main Christian churches in Ireland. The advertisements were described as spiritual in content, rather than religious. They featured a number of well-known figures, national and international, promoting religion. RTÉ, on legal advice, subsequently withdrew its acceptance. It was believed that the advertisements breached s.65 of the Broadcasting Act, 2001, in that they were not just notices of a religious event (or newspaper, magazine or periodical), but involved an element of persuasion. The advertisements invited viewers to call for a free book and CD. Zion Trust, the group behind the campaign, sought an injunction restraining RTÉ from breaching its contract and directing it to broadcast the advertisements. In September 2002, the High Court refused the injunction on the grounds that to do so would effectively be disposing of the issues set down for determination by the Court at a full trial. However, following negotiations between RTÉ and Zion Trust, a revised version of the advertisements was accepted and broadcast from the beginning of

October. The original advertisements had already been accepted and broadcast by UTV in Northern Ireland and by Sky Television and Channel 4 in the UK; all of these channels are available in Ireland.

"Broadcasters advised not to air adverts", "RTE refuses to show adverts for religious group", The Irish Times, 20 September 2002

<http://www.ireland.com>

"RTE not compelled to run trust ads", "Religious campaign refused order on TV adverts", The Irish Times, 24 September 2002

<http://www.ireland.com>

