[BE] Total Ban on Political Advertising on Radio and Television

IRIS 2003-5:1/10

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Since 1998 the Flemish Broadcasting Act has prohibited political advertising on radio and television (Article 80 para. 3 - see IRIS 1998-5: 13). The prohibition of political advertising on radio and television was integrated into the Flemish Broadcasting Act when the Flemish Parliament realised that the federal law on electoral propaganda and the financing of political parties did not provide for such a prohibition. Nor was the provision in Article 81, no.1 of the Flemish Broadcasting Act that forbids advertising with a political tendency an effective rule for banning political advertising on radio and television, as political messages paid for by political parties were not considered as "advertising" according to the definition contained in the Flemish Broadcasting Act (and the Television Without Frontiers Directive). Media Law Section of the Communication Sciences Department, Ghent University, Belgium

However article 80 para. 3, which was inserted into the Broadcasting Act in 1998, only prohibited messages paid for by political parties in order to promote the parties themselves. As a consequence, it seemed that the possibility was left open for messages that would promote individual politicians or candidates for elections. After the Vlaams Commissariaat voor de Media (Flemish Media Authority) decided on 23 September 2002 that this kind of individualised political message was not covered by Article 80 para. 3 of the Broadcasting Act, the Flemish Parliament decided to reformulate and broaden the ban on political advertising. It was emphasised that in 1998 the legislator had had the intention to ban all political advertising on radio and television promoting political parties and individual politicians. The modification of Article 80 para. 3 that was passed by the Flemish Parliament on 19 February 2003 now contains a total ban on political advertising: Flemish radio and television broadcasters are not allowed to provide paid broadcasting time to political parties, elected officials or candidates for elections.

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Decreet houdende wijziging van artikel 80 § 3 van de decreten betreffende de radio-omroep en de televisie, gecoördineerd op 25 januari 1995 (Decree of 28 February 2003 modifying Article 80 para. 3 of the Broadcasting Act 1995),Le Moniteur belge/Het Belgisch Staatsblad, 21 March 2003, available at:

http://www.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_dat

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e=2003-03-21&numac=2003035304

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