[SE] Decisions of the Swedish Broadcasting Commission on TV3 and Femman

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In two recent cases the Swedish Broadcasting Commission decided upon the applicability of the Swedish Satellite Broadcasting Act on Swedish broadcasting companies established abroad. One of the cases concerned TV3. The Swedish Satellite Broadcasting Act applies to broadcasting companies established in Sweden. The Commission had to determine the criteria on which basis a company can be considered to be a "broadcasting company". The Act defines "broadcasting company" as a company which puts together and is responsible for the programming. In the case of TV3 two companies would come under this definition: TV3 Broadcasting Group Ltd (TV3 BG) established in the United Kingdom with a broadcasting license of the UK's Independent Television Commission (ITC), and its Swedish subsidiary TV3 Sverige AB. According to TV3 BG the UK based company is responsible for all programming such as the planning and buying of programmes, all financial and legal business as well as invoicing and conctractual payements. The Broadcasting Commission found that TV3 BG is to be considered as the broadcasting company under the Swedish Satellite Broadcasting Act. Therefore, the Act does not apply and the Broadcasting Commission has no competence in the case.

The other case concerned Femman, owned by the broadcasting company Scandinavian Broadcasting System (SBS). The Commission decided earlier that the Swedish Satellite Broadcasting Act does not apply to Femman since SBS is established in Luxembourg. According to the Commission's instructions, however, it monitors the content of all programming aimed at a Swedish audience and reports on it to the Swedish Governement. In this case the Commission reported on Femman's compliance with the Directive on "Television without Frontiers" (89/552/EEC). The report is based on Femmans programming during the period 8-10 June 1995. The Commission found that Femman was not complying with the Articles 10, 11 and 18 of the Directive. The Commission found that some of the advertising breaks were not readily recognizable, as required by Article 10. Furthermore Femman had not separated most of the advertisements from other parts of the programme service, as required by Article 11; 90% of the advertisments would have been inserted in the programmes rather than between them. In sports programmes the advertisments were inserted during the games and not during the natural breaks as stipulated by Article 11. Several programmes such as films and news that were broadcast had advertising breaks more frequently than allowed by this Article. Moreover, on one occasion a

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homeshopping programme was broadcast with a length of four hours which, according to the Broadcasting Commission infringed Article 18 of the Directive.

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