

[CZ] Decision by the Supreme Administrative Court on Sponsoring Information

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The Supreme Administrative Court of the Czech Republic has established criteria for appraising the distinction between advertising and sponsoring in its ruling dated 30 November 2006.

The starting point for this development involved various decisions of the Czech *Rada pro rozhlasové a televizní vysílání* (Broadcasting Council) in which it had imposed fines on various broadcasting companies for introducing advertising into sponsorship material. The decisions by the Broadcasting Council were contested in later proceedings. Some decisions were subsequently upheld by the Prague municipal court while others (for various reasons) were set aside. Both sides finally entered an appeal to the Supreme Administrative Court of the Czech Republic, which then set aside almost all the findings of the Prague municipal court and referred the cases back for further hearings subject to an appraisal criteria that the court itself had established.

Sponsoring demonstrates, according to the Court, the goodwill of the sponsor. Herein lies the difference between advertising and sponsoring, since sponsoring information, unlike advertising, does not invite the purchase of the sponsor's products. It is not permissible to convince the viewer to buy a product by impressing upon him certain positive features of the product. An "advertising story" may not be totally inadmissible, while it might work as advertising. Slogans that tend to form images are however admissible.

The law prescribes no specific way of identifying the sponsor, leaving a wide variety of options available, according to the Court. The creative freedom of the promoter relates not only to the way in which the sponsorship wording is formulated but also to the total setting. Moving images are, as a consequence permissible. Everything comes down to whether the commercial boundary is overstepped. It would be commercial if the reference to the sponsor were incorporated before or after an advertising sequence was broadcast. The boundary would be crossed if the information took on a commercial nature through the way in which the moving images were selected, possibly linked to the naming of a product and to the depiction of a sponsor's products, however fleeting the transition. Along with the mere naming of the product, a visual presentation of the product would also then be possible.

The criteria enunciated by the court will henceforth be applied in practice by the Broadcasting Council.

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<http://www.rrtv.cz/cz/files/judikaty/7%20As%2083-2005.pdf>

Ruling of the Supreme Administrative Court No 7 As 83/2005-79 of 30 November 2006

