[BE] Admonition for SBS Belgium and Sex & the City

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In a decision of 3 April 2007, the *Vlaamse Regulator voor de Media* (Flemish Regulator for the Media) expresses the opinion that an episode of "Sex & the City", broadcast by Vijf TV SBS Belgium between 19:15h and 19:45h has violated Article 96 § 1 of the Broadcasting Act (*Decreten betreffende de radio-omroep en de televisie, Mediadecreet*). This article transposes Article 22 of the TVWF Directive into the Flemish Broadcasting Act, prohibiting the broadcasting of programmes that could harm the physical, mental or moral development of minors, unless the choice of the time of transmission, or technical measures, guarantee that minors would not normally see those programmes in the broadcasting arena. Also, if such programmes are broadcast in a decoded form, they must be preceded by an auditory warning.

The Flemish Regulator for the Media, spurred by the complaint of a father of two young children, considered the contentious episode as falling under the application of Article 96 § 1. The programme contained two “very explicit scenes” of a man masturbating while looking at sex magazines on which the camera had focused. The decision considers that these scenes can be harmful for young children in their development of sexual feelings or can even induce feelings of fear, because sexuality is associated with pain and aggression. The decision also refers to the fact that "Sex & the City" is rated by Nicam/Kijkwijzer (the national institute for classification of audiovisual material) in the Netherlands as 12+ and that in the scheduling block between 18:00h and 20:00h children younger than 12 are regularly, in the family circle, also watching television. Hence, the broadcasting of the episode of 2 February 2007 was considered as violating the provision of Article 96 § 1. The Flemish Regulator also found that the programme had not been preceded by an auditory warning indicating that a programme would follow that could be harmful for children. Due to this double infringement the Regulator decided to sanction SBS Belgium by way of an admonition.

The Flemish Regulator for the Media is an external independent agency with a legal personality in public law. Its “second chamber” can decide on complaints with regard to alleged infringements of the provisions on editorial independence, impartiality, discrimination (art. 111 *bis*), incitement to hatred on the grounds of race, gender, religion or nationality and the protection of minors on radio and television (art. 96 § 1). The chamber for impartiality and the protection of minors is composed of judges, academics, professional journalists and experts in the

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fields of child psychology or education and other members representing the interests of families and children.

SBS Belgium have announced that they will request the administrative court (*Raad van State/Conseil d'Etat*) to annul the decision of the Flemish Regulator for the Media, due to procedural reasons and a lack of pertinent motivation of the decision.

Vlaamse Regulator voor de Media, Kamer voor Onpartijdigheid en Bescherming van Minderjarigen, Marc Dumortier t. SBS Belgium NV, Beslissing nr. 2007/16, 03/04/2007

http://www.vlaamseregulatormedia.be/beslissingen/2007-016.pdf

Flemish Regulatory Authority, chamber for impartiality and the protection of Minors, Marc Dumortier t. SBS Belgium NV, Decision nr. 2007/16, 3 April 2007

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