[FR] CSA Overrules Negative Opinion of BVP and Authorises Broadcasting of a Television Commercial

IRIS 2008-5:1/13

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The *Bureau de Vérification de la Publicité* (BVP) is the self-disciplinary body of the French advertising industry. Its purpose is to "take action in favour of advertising that is honest, truthful and healthy, in the interests of the advertising profession, consumers and the public", and its members are professionals in advertising. The BVP lays down ethical guidelines with self-disciplinary rules so that advertising sets a good example, beyond the mere application of whatever legislation may already apply. In ensures that these ethical rules are taken into account on a day-to-day basis, more particularly by giving its opinion on all television commercials before they are broadcast.

There was a minor flurry in early April concerning a commercial for Leclerc hypermarkets on the sale of medicines that are not refunded under the national health scheme. The BVP had given a negative opinion on the broadcasting of the commercial, considering its voice-over to be "disparaging": "Medicines that are not refunded are becoming increasingly expensive. Leclerc is asking for its pharmacists to be able to sell these non-refunded medicines at Leclerc prices." In a communiqué on 4 April 2008, the *Conseil Supérieur de l'Audiovisuel* (national audiovisual regulatory authority - CSA) had announced that it was not opposed to the campaign. This was the first time that the CSA had been asked to give its opinion on a campaign of a company in the distribution sector since this had been opened up to advertising on 1 January 2007, in application of the Decree of 7 October 2003 amending the Decree of 27 March 1992. After discussions with the BVP, it decided that the advertising was not of a political nature – which is prohibited by the Act of 30 September 1986 – and that its broadcasting was not contrary to the aforementioned Decree of 27 March 1992. The CSA also found that the commercial did not contain anything likely to be prejudicial to the image of either the pharmaceutical industry or the pharmacy profession. The commercial was therefore broadcast on M6 and TF1 despite the negative (but not coercive) opinion of the BVP, since in the end it is only the CSA that can decide whether or not a commercial is to be banned. An association and two unions of pharmacists thereupon referred the matter to the regional court of Colmar, to have the campaign withdrawn on the grounds that it was dishonest and excessive.

At the same time, the BVP is completing its transformation, which began in 2005, on the initiative of a number of associations calling for a reform of the regulation of advertising and its transparency towards civil society. The process was

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accelerated during a top-level meeting on the environment, at which the matter of “responsible advertising” was broached. Those present had agreed to move away from the self-regulation of advertising towards co-regulation, and three large-scale innovations had been decided on. Firstly, the present Concertation Commission should be replaced by a new Joint Advertising Council, with 18 members (9 advertising professionals, 6 representatives of consumer associations, and 3 representatives of environmental NGOs). Secondly, advertisers, the NGOs and the Government should sign a “charter for environmentally responsible advertising”, and undertake to submit all campaigns with an ecological element to the BVP for its opinion. Thirdly, it was decided to create a Panel on Ethical Advertising, with 9 members (members of the BVP and the Joint Council), to which individuals, associations or businesses could appeal if they felt a campaign contravened the ethical rules. Its decisions, which would be published, could give rise to demands to stop broadcasting the commercials in question. According to Jean-Pierre Teyssier, chairman of the BVP, the role of this panel, “in a pivot position between the public and the profession, will be essential in reaching a new stage in regulation of the profession, in favour of advertising that is even more responsible, which we have promised the public authorities we will do”. The BVP also announced its desire to change its name, to better reflect its new functions.

Le CSA ne s'oppose pas à la diffusion de la campagne publicitaire télévisée des centres E. Leclerc, communiqué du 4 avril 2008

http://www.csa.fr/actualite/communiques/communiques_detail.php?id=126212

CSA not opposed to broadcasting of campaign of Leclerc hypermarket commercials on television; communiqué of 04 April 2008

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