[BE] Recommendation on Call-TV

IRIS 2008-6:1/3

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On 18 October 2007, the Court of Justice of the European Communities delivered a landmark decision in the case between KommAustria and ORF on call-TV determining under what circumstances it came closer to commercial advertising and under what circumstances it was rather a matter of tele-shopping (see IRIS 2008-1: 4).

On 21 February 2008, in application of this jurisprudence, the *Collège d'Autorisation et de Contrôle* (authorisation and supervision panel) of the *Conseil Supérieur de l'Audiovisuel* (audiovisual regulatory body – CSA) of the French-speaking Community found against the editor of the television broadcasting service AB 4 for violation of the rules applicable to tele-shopping, and more specifically of the rule on maximum daily duration, by broadcasting a call-TV programme. Rather than the penalty inflicted, which is in fact quite light (a warning and the requirement of broadcasting a communiqué), it is the scope of the principle behind the decision that is of importance – as *call-TV* is defined as "a programme, with a presenter, aimed at making members of the public take part in a game from home by encouraging them to answer a question (of general knowledge or logic), using a telephone number carrying a surcharge, in the hope of winning a prize or cash" and as such is assimilated into a tele-shopping programme, defined by the Decree of 27 February 2003 on broadcasting as "the broadcasting of direct offers to the public with a view to the supply, against payment, of goods or services, including immoveable goods, or rights and obligations".

The CSA understood what was involved and, immediately after the individual decision had been delivered, adopted a leading recommendation addressed to all editors. In this, it emphasises not only four constitutive features of tele-shopping that can be applied to call-TV, but also the compliance of its interpretation with the criteria brought out by the Court of Justice in the KommAustria case. It therefore serves as a reminder from the CSA to broadcasters that they are required to comply with the arrangements specific to tele-shopping, particularly the rule limiting broadcasting to three hours a day. It also stresses the fact that the matter falls within the joint competence of the CSA and the *Commission des Jeux de Hasard* (commission on games of chance).

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« La call TV dorénavant limitée à 3 heures par jour »

http://www.csa.be/breves/show/223

"*Call TV henceforth limited to 3 hours per day*"

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