[SE] Administrative Court of Appeals Rules on Obligation to Pay Fee for Unlawful Broadcast of Advertising

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Michael Plogell and Henrik Svensson
Wistrand Advokatbyrå, Gothenburg

On 26 May 2008, the *Kammarrätten i Stockholm* (the Stockholm Administrative Court of Appeals) issued a judgment on a case involving the unlawful broadcasting of advertisements. The case concerned the application of provisions included in *Radio-och TV-lagen* (The Radio and TV Act – RTL). The RTL is based on the TWF Directive 89/552/ECC, as amended by Directive 97/36/EC.

On 25 April 2006, the Swedish nationwide television channel TV4 broadcast an interview with the very famous, at least in Sweden, artist Carola Häggkvist. In the middle of the interview, a commercial break was inserted. The break was inserted after a fairly long question from the interviewer, but before the response from the interviewee. The interview also changed direction at the time of the commercial break; the question preceding the break was the first question on a new subject matter within the interview.

In the RTL there are provisions regulating the circumstances under which advertising may be broadcast. These provisions, *inter alia* , state that advertising should be broadcast between programmes. Advertising may however interrupt a programme if, with regard to natural pauses and the programme's length and character, neither the programme's integrity or value, nor the rights of rights holders are violated. If these provisions are breached, the court may impose a special fee.

The court stated that a commercial break may be inserted where it does not cause an interruption to the programme's continuity. The court then argued that the insertion of the commercial break between the interviewer's question and the interviewee's response placed it in the middle of the programme's course of events and not where a natural break would have occurred, if a commercial break had not been inserted.

Therefore the court found that the integrity and value of the programme was violated and a special fee was imposed on TV4 amounting to SEK 25,000 (approximately EUR 2,675).

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Kammarrätten i Stockholm, 2008-05-26, mål nr 271-08, överklagat avgörande: länsrättens i Stockholms län dom 2007-12-03 i mål 26405-06

The Stockholm Administrative Court of Appeals, 2008-05-26, case nr 271-08, appealed judgement: Stockholm County Administrative Court's judgment 2007-12-03 in case nr 26405-06

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