European Commission: Proceedings against Infringement of EU Advertising Rules by Italy and Estonia Closed

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Christina Angelopoulos
Institute for Information Law (IViR), University of Amsterdam

On 8 October 2009, the European Commission decided to close infringement procedures initiated against Italy and Estonia for breaches of the EU's advertising rules, as set out in the old Television without Frontiers (TwF) Directive.

In regard to Italy, the Commission's concerns focused on three fronts: (1) Teleshopping messages too short to enable their identification as such by viewers were being broadcast by Italian television channels, while also not being counted towards the twelve-minute hourly advertising limit; (2) Television stations' self-promotional spots were not included within Italy's legal definition of advertising; (3) The sanctions envisaged in Italian law for breaches of advertising rules were found to be insufficient. In response to the Commission's launch of an infringement procedure, AGCOM, the Italian media and telecom's regulator, introduced amendments to national advertising rules, by imposing a fifteen-minute minimum duration for teleshopping spots. In addition, according to the modified rules, both teleshopping windows and self-promotional messages are also in future to be included within the hourly limits. Self-promotional messages are clarified as including broadcast announcements for upcoming programmes and messages promoting the broadcaster's additional products and services, such as premium pay-TV. In addition, self-promotional material is specified as being subject to the advertising rules on the protection of minors, inappropriate content such as hate speech and the promotion of harmful substances such as tobacco. Finally, Italian sanctions for infringement of advertising rules have been strengthened: Law No. 101/2008 abolishes the sanction of a formal notice, as well as the possibility for broadcasters to pay a reduced fine and introduces higher financial penalties for infringements.

The Commission's concerns in relation to Estonia also involved breaches of the hourly advertising limits. An exchange of letters with the Estonian authorities revealed that the violations were as a result of the incorrect interpretation of the TwF Directive on the part of Estonia. Estonian broadcasters had been including sponsorship messages (which inform television viewers about sponsorship agreements) within regular advertising spots, but had not been factoring them into calculations for the twelve-minute advertising limit. The Estonian Ministry of Culture has now drawn up a set of guidelines for Estonian broadcasters clarifying

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the legal stipulations.

It should be noted that the TwF Directive was updated by the new Audiovisual Media Services (AVMS) Directive. Member States must transpose the revised Directive into national law by 19 December 2009.

"Commission ends legal action after Italy and Estonia comply with EU advertising rules", IP/09/1492, Brussels, 8 October 2009

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