[BE] Recommendation on Product Placement

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Product placement has been authorised in the French-speaking Community of Belgium since 19 December 2009, in compliance with Article 21 of the Coordinated Decree of 26 March 2009 on audiovisual media services. By totally banning product placement in news broadcasts and children's programmes, the legislator has in fact gone further than is required by the AVMS Directive, but the amendment is significant nonetheless: in all other types of programme, the placement of accessories is authorised, whereas product placement *stricto sensu* (i.e., in return for payment) is only accepted in cinematographic and television fiction (series, films made for television), in sports programmes (including matches), and in entertainment programmes (games, variety broadcasts, reality shows, etc).

With this in mind, the authorisation and supervision college of the *Conseil Supérieur de l'Audiovisuel* (audiovisual regulatory body - CSA) adopted a recommendation on 17 December 2009 on product placement on television to lay down a framework and some criteria for this new practice, with a view to ensuring transparency and legal security. Like many audiovisual regulatory bodies throughout Europe, the CSA does not have any regulatory power - and the recommendation is therefore not a regulation that creates a law - but its power of supervision and sanction nevertheless means that it will be required to apply the statutory provisions to product placements. The recommendation has been drawn up after meetings with the various stakeholders in the sectors concerned (editors, producers, advertisers, consumer associations, etc), and its function is therefore to explain to editors the way in which the regulator will interpret this practice in its future decisions.

In compliance with the Directive, the coordinated decree on audiovisual media services imposes observance of four conditions for product placement: the content and, in the case of television broadcasting, the programming, must not be influenced in such a way as to infringe the service editor's liability and editorial independence, there must be no direct incitement to purchase or hire the goods or services, attention must not be drawn to the product without justification, and there must be clear identification that a product is being placed. In this respect, the CSA recommends that editors adopt a two-stage approach: for a period of three months, to familiarise viewers with the idea of product placement, the CSA recommends that editors indicate the presence of product placement, and explain what is involved by showing a full-screen notice for at least ten seconds before

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the start of the programme stating that “The following programme contains the commercial placement of products, brand names or services” accompanied by a “PP” pictogram. During a second stage, the pictogram would suffice, but should appear alone for at least ten seconds at the start and end of programmes, and after commercial breaks.

Conseil supérieur de l'audiovisuel, « Recommandation relative au placement de produit », 17 décembre 2009

http://www.csa.be/system/document/nom/1143/CAC_20091217_recommandation_placement_produit.pdf

CSA “Recommendation on product placement”, 17 December 2009

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