[BE] First Decisions on Product Placement and Sponsorship under the New Media Decree

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On 18 January 2010, the *Vlaamse Regulator voor de Media* (Flemish Regulator for the Media) rendered two decisions concerning SBS Belgium, in which it concluded there had been violations of the new rules on product placement and sponsorship. These are the first decisions in which these topics have been considered under the new Flemish Media Decree, in force only since 1 September 2009.

The first decision dealt with two instances of product placement in two distinct episodes of the programme 'The Block Ghent'. In particular, the requirement that programmes that contain product placement should not encourage the viewer to purchase or lease goods or services, specifically by recommending these (Article 100, §1 (2) of the Media Decree), played a central role in this decision. In this programme, four couples competed against each other in restoring some apartments in a building in Ghent. In one episode, packaging of paint with the label 'Levis' on it was displayed very prominently for a period of five seconds, taking up nearly one quarter of the screen surface. In the background, a participant was painting a wall, while clearly expressing his admiration for the paint ("This is really good paint (...) It's incredible (...) It covers the wall with one layer" (translation by the author). After a while, his wife entered the room and was in turn very enthusiastic about the colour of the paint. In the second episode, a boiler by 'Junkers' was prominently displayed for a total of 22 seconds spread over a period of 45 seconds. After the presenter had commended the boiler, an Electrabel representative summed up its advantages, (again) highly praising the boiler in a professional manner. This fragment concluded with the wording "This boiler will certainly provide a lot of comfort to you" (translation by the author). In both cases, the Regulator decided that by highly commending these products, the programme directly encouraged their purchase or lease, in breach of Article 100, §1 (2) of the Media Decree. In determining an appropriate sanction, the Regulator took notice of the gravity of the violation, the fact that the programme was broadcast during primetime and that it scored high ratings. On the other hand, the Regulator also took into account that these cases were the first to be judged under the new rules on product placement. Eventually, a fine amounting to EUR 10.000 was imposed.

The second decision concerned the regulation on sponsorship. During an announcing advertisement for the youth news programme 'JAM', a visual

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reference to the clothing sponsor (Jack & Jones) was displayed. Although Article 91, 2nd clause of the Media Decree allows references to sponsors in announcing advertisements, Article 96, 1st clause, clearly prohibits news and political affairs programmes from being sponsored. As a consequence, the Regulator decided that announcing advertisements for programmes that may not be sponsored cannot ever contain references to sponsors. The Regulator decided only to caution SBS Belgium for this infringement.

ZAAK VAN VRM t. NV SBS BELGIUM (dossier nr. 2009/0496), BESLISSING nr. 2010/005, 18 januari 2010

http://www.vlaamseregulatormedia.be/media/12203/2010-005.pdf

VRM vs. NV SBS Belgium, 18 January 2010 (No 2010/005)

ZAAK VAN VRM t. NV SBS BELGIUM (dossier nr. 2009/0495), BESLISSING nr. 2010/004, 18 januari 2010

http://www.vlaamseregulatormedia.be/media/12129/2010-004.pdf

VRM vs. NV SBS Belgium, 18 January 2010 (No 2010/004)

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