[BE] Flemish Community: Public Broadcaster, Shocking Images and Product Placement

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Hannes Cannie
Department of Communication Sciences / Center for Journalism Studies, Ghent University

In two recent decisions, both chambers of the Vlaamse Regulator voor de Media (Flemish Regulator for the Media - monitoring and enforcement of media regulation) condemned the public broadcasting corporation VRT for breach of the Flemish media regulation.

On 19 January 2010, the Kamer voor Onpartijdigheid en Bescherming van Minderjarigen (Chamber for Impartiality and the Protection of Minors) rendered a decision regarding the transmission of a trailer around 8 p.m., just before the beginning of the family series 'Dieren in Nesten' (freely translated, 'Animals in Trouble'). This series follows the adventurous practices of some vets and, according to the plaintiff, both his children, who are five and seven years of age, are loyal viewers of it. The trailer in question displayed images of a murder by way of a gunshot to the forehead and of a transparent body bag which was unzipped, revealing the head of a deceased person, the face clearly injured. Article 42 of the new Flemish Media Decree prohibits linear television broadcasters from transmitting any programmes that could cause serious detriment to the physical, mental or moral development of minors, particularly programmes containing pornographic scenes or unnecessary violence (first indent). This provision also applies to announcements of programmes (fourth indent). The broadcaster can avoid violating this provision only where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area covered by the service will not normally hear or see such broadcasts (second indent). The Chamber considered that displaying horrifying or shocking images can exert a negative influence on the physical, mental or moral development of minors and that the VRT should have been aware of the fact that it was not guaranteed, given that the transmission took place just before a family series, that children and young people would normally not see this trailer. Therefore, it concluded a breach of Article 42 of the Decree, but nevertheless decided in the end that there was no reason to impose a sanction, given that the transmission was said to be the result of a communication error and that the broadcaster made its excuses to the plaintiff and proceeded with taking measures to guarantee that, in future, spots that display images that could be harmful to minors will not be transmitted before, during or immediately after a family programme.

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On 15 March 2010, the Regulator again found a breach by the public broadcaster VRT, this time of the regulation on product placement. On the Sunday morning information programme 'De Zevende Dag' (freely translated, 'The Seventh Day'), a report, which lasted two and a half minutes, was included on the presentation of the new sports collection of the famous lingerie label Marie-Jo. The product itself was mentioned and shown several times, while during the entire report various items from the collection were prominently displayed. The well-known Belgian tennis player Yanina Wickmayer, who is the 'face' of the new collection, used the interview to express her admiration for Marie-Jo. The Algemene Kamer (General Chamber) considered the combination of the visual elements and the auditory contributions to have a clear promotional value that could only be in favour of Marie-Jo. It judged Marie-Jo's cooperation with the programme to be a form of prop placement, an allowable type of product placement (Article 99, 2° of the Media Decree), as Marie-Jo provided the VRT with a location in which to film and with various products. The first paragraph of Article 100 of the new Flemish Media Decree prohibits programmes that contain product placement from encouraging the viewer to purchase or lease goods or services, specifically by recommending these products or services (2°). In addition, the product or the service in question cannot benefit from undue prominence (3°). The Chamber judged that the label Marie-Jo had benefited from undue prominence, given the multiple display of the products in question, and that the interview with Yanina Wickmayer, during which she develops a purely promotional argumentation in favour of Marie-Jo, directly encourages the viewer to purchase those products. As a consequence, the Regulator decided to impose a fine amounting to EUR 5,000.

ZAAK KURT LAMBRECHTS t. NV VLAAMSE RADIO- EN TELEVISIEOMROEP (dossier nr. 2009/0497) BESLISSING nr. 2010/006, 19 januari 2010

http://www.vlaamseregulatormedia.be/media/12072/2010-006.pdf

Kurt Lambrechts vs. NV VRT, 19 January 2010 (No 2010/006)

ZAAK VAN VRM t. NV VLAAMSE RADIO- EN TELEVISIEOMROEP (dossier nr. 2010/0502) BESLISSING nr. 2010/015, 15 maart 2010

http://www.vlaamseregulatormedia.be/media/12461/2010_015.pdf

VRM vs. NV VRT, 15 March 2010 (No 2010/015)

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