[CH] Arrangements on Advertising and Sponsorship Relaxed

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The Radio and Television Decree (Ordonnance sur la Radio et la Télévision - ORTV) has been amended, as of 1 April 2010, in order to bring its provisions into line with European rules. As a result of the transposition of Directive 2007/65/EC on Audiovisual Media Services ("AVMS Directive") into the national law of the member states of the European Union, those French, German and Italian television channels that can be picked up in Switzerland now have more opportunities with regard to advertising and sponsorship. The new agreement on Switzerland's participation in the MEDIA programme also provides that the foreign advertising slots broadcast in Switzerland are subject to the law of the broadcasting state. Thus the amendments made to the ORTV are aimed at relaxing somewhat the rules imposed on Swiss broadcasters and improving their economic conditions in the face of foreign competition.

The new provisions henceforth authorise the isolated broadcasting (separate from blocks) of advertisements between programmes and during coverage of sports events. There may be a commercial break every 30 minutes during cinema and television films (except serials, soaps and documentaries) and political news broadcasts and magazine programmes. During the broadcasting of events that include interruptions, advertising may also be broadcast during those interruptions, in addition to the slots already mentioned. In no circumstances, however, may broadcasts directed at children and broadcasts of religious services include commercial breaks. The duration of advertising may not exceed 15% of daily air time or 12 minutes per hour. Broadcasters not holding a concession, however, whose radio or television programmes cannot be picked up in other countries, are not subject to any restriction regarding commercial breaks or the duration of advertising (except for the ban on commercial breaks in broadcasts directed at children and broadcasts of religious services).

On the subject of sponsoring, the new Article 20 of the ORTV provides that the mention of the sponsor must not constitute direct incitement to enter into any binding agreement involving goods or services. This provision thus authorises certain declarations at the time of mentioning the sponsor that were not permitted under the former regulations (according to which the mention of the sponsor was not allowed to include any reference that might have constituted advertising). The ORTV now also provides that, contrary to the obligation to

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indicate product placement not only at the start but also (this point is new) after each commercial break and at the end of the broadcast, a single declaration is sufficient where the value of the product placements, the material aids to production or the prizes do not exceed CHF 5,000. Furthermore, the obligation to indicate product placement does not apply to films not produced by the broadcaster itself, or commissioned from independent producers and financed less than 40% by the broadcaster (co-productions).

Relaxing the rules on advertising and sponsorship currently only applies to private-sector broadcasters, which means that the Swiss broadcasting company Société Suisse de Radiodiffusion et Télévision (SSR) remains subject to stricter rules. The Federal Council will pronounce on the possibility of relaxing the arrangements for SSR's programmes when it examines the amount of the television licence.

Ordonnance sur la radio et la télévision (ORTV) du 9 mars 2007 (Etat le 1er avril 2010)

http://www.admin.ch/ch/f/rs/784_401/index.html

Decree on radio and television (ORTV) of 9 March 2007 (version as at 1 April 2010)

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