[BE] Three Major Flemish Broadcasters Again in Breach of Advertising Regulation

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

In three recent decisions, the Vlaamse Regulator voor de Media (Flemish Regulator for the Media - monitoring and enforcement of media regulation) addressed the three major Flemish broadcasters for breach of the advertising regulation.

The first decision (18 October 2010) concerned the illegitimate transmission of a television advertisement. On the broadcasting programme VT4, a single spot was shown that featured the presenters holding a party, all of them drinking “Martini Brut”. The bottles and the logo were prominently displayed and, at the end of the programme, a voice-over stated “Beleef een bruisende zomer met VT4 en Martini Brut” (freely translated, “Have a delightful summer with VT4 and Martini Brut”). According to SBS Belgium, this spot should be viewed as self-promotion, sponsored by Martini. The General Chamber, however, judged this spot to be an advertisement in favour of Martini. The message via voice-over and the clear display of the bottles and logo of Martini Brut gave this spot the character of advertising. Article 79, §1 of the Flemish Media Decree stipulates that television advertising, excluding self-promotion, should be clearly identifiable and easy to differentiate from editorial content. In this regard, it should be kept quite distinct from other parts of the programme by visual, and/or acoustic, and/or spatial means (1st clause). The Regulator took into account that SBS Belgium had earlier been fined for almost identical facts (see IRIS 2010-6/10) and decided to impose a fine of EUR 25,000.

In its second decision (22 November 2010), the Regulator addressed the programme “Game Power Special”, transmitted by the commercial broadcaster VMMa. The content and the length of this programme, as well as the fact that the games in question are highly recommended by the presenter and the representative of the game company, suggest that this programme is actually an advertorial. As the broadcaster failed to identify the programme as such, it violated the Flemish Media Decree (Articles 79, §1 and 81, §5). As it was the first time that the VMMa violated these provisions, it was only cautioned by the Flemish Regulator.

In the third decision (22 November 2010), the public broadcaster VRT was sanctioned, again, for breach of the regulation on product placement (see also

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IRIS 2010-5/9, IRIS 2010-7/7 and IRIS 2010-8/14). This time “Bacardi” benefited from undue prominence during the programme “Villa Vanthilt”, in breach of Article 100, §1, 3° of the Flemish Media Decree. Given that the VRT had already been fined several times for similar facts, the Regulator decided to impose a fine of EUR 10,000.

VRM v NV SBS Belgien, 18/10/2010 (Nr. 2010/044)

http://www.vlaamseregulatormedia.be/media/14084/besl044%20zaak%20van%20vrm%20t.%20nv%20sbs%20belgium.pdf

VRM v. NV SBS Belgium, 18 October 2010 (No. 2010/044)

VRM v NV VMMa, 22/11/2010 (Nr. 2010/052)

http://www.vlaamseregulatormedia.be/media/14343/2010-052.pdf

VRM v. NV VMMa, 22 November 2010 (No. 2010/052)

VRM v NV VRT, 22/11/2010 (Nr. 2010/053)

http://www.vlaamseregulatormedia.be/media/14411/2010-053.pdf

VRM v. NV VRT, 22 November 2010 (No. 2010/053)

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