[IT] Agcom Sets Up a Monitoring Observatory on Product Placement

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On 20 January 2011 the Autorità per le garanzie nelle comunicazioni (Italian Communications Authority - Agcom) adopted deliberation no. 19/11/CSP setting up a standing monitoring Observatory on product placement. On account of the complexity of the subject, the Observatory is aimed at dealing with the practical enforcement of the primary rules adopted in 2010 in implementation into Italian legislation of Article 11 of the AVMS Directive 2010/13/EU (see IRIS 2008-1/3).

Article 15 of legislative decree no. 44/2010 (see IRIS 2010-2/25) which introduced a new Article 40-bis into the Italian Broadcasting Code (see IRIS 2005-9/24), now renamed the AVMS Code, is an almost literal transposition of the AVMS Directive and allows product placement in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes, excluding children's programmes. According to this provision, goods or services may be placed in the above-mentioned programmes free of charge or in return for payment. In addition, product placement must not affect the responsibility and the editorial independence of the audiovisual media service provider and programmes that contain product placement must not directly encourage the purchase or the rental of the placed products nor give undue prominence to the products in question. Viewers shall be clearly informed about the presence of product placement in the programme both at the start and at the end of the programme, as well as when the programme resumes after an advertising break. In any event, product placement of tobacco products and medical products available only on prescription is prohibited.

In order to implement to these new rules, Article 40-bis of the AVMS Code obliges producers, audiovisual media service providers and advertisers to adopt self-regulatory codes on product placement and to notify these to Agcom, who is charged with monitoring their application. Before setting up the Observatory, on 5 November 2010 Agcom published a notice inviting all interested stakeholders to transmit their codes to Agcom and asked for comments on the occasion of setting up a permanent consulting unit in order to discuss the practical issues arising from the implementation of the codes together with the industry.

Having received general consensus in this regard, the permanent Observatory was established with deliberation no. 19/11/CSP within Agcom's Audiovisual

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Content Directorate. The mission of the Observatory is, on the one hand, to allow an ongoing discussion between Agcom and all concerned stakeholders in order to deal with the practical enforcement of the codes and with the different forms of product placement that may appear over time, so as to ensure their compliance with internal and Community law, and, on the other hand, to guarantee Agcom's technical support in the debate both at the national and international level on issues related to product placement.

As to its working procedures, linear and non-linear AVMS providers, consumers' and users' associations, producers, national and local broadcasters, institutions, self-regulatory and non profit-making organisations that have specific competences on the subject, as well as any other stakeholder, are invited to interact with the Observatory by sending their comments to Agcom's Audiovisual Content Directorate. The dates for the Observatory's meetings will be published on Agcom's website.

Delibera n. 19/11/CSP - Istituzione di un osservatorio permanente in materia di inserimento dei prodotti ai sensi dell'articolo 40 bis del Testo unico dei servizi di media audiovisivi e radiofonici - Decreto legislativo 31 luglio 2005, n. 177, come integrato dal Decreto legislativo 15 marzo 2010, n. 44

http://www.agcom.it/default.aspx?DocID=5714

Deliberation no. 19/11/CSP - Establishment of a standing monitoring unit on product placement under the Article 40bis in the AVMS code in the legislative decree n. 177/2005 ("Testo unico dei servizi di media audiovisivi e radiofonici"), as integrated into the legislative decree no. 44/2010

Circolare sull'autoregolamentazione dell'inserimento di prodotti all'interno della programmazione

http://www.agcom.it/default.aspx?DocID=5102

Notice on the self-regulation of product placement (according to Article 40-bis of the Audiovisual media services and radio code)

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