[BE] Flemish Public Broadcaster Fined for the Display of Red Bull and Burton

IRIS 2013-3:1/10

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During the programme Café Corsari on één, a channel of the Flemish public broadcaster VRT, Seppe Smits, a snowboarder, was interviewed about the Snowboard World Cup in Antwerp. Seppe Smits was wearing a cap with the logo of his sponsor, Red Bull, and a t-shirt bearing the brand of another sponsor, Burton. During the interview with Seppe Smits and during two interviews with other guests, the Red Bull logo and the Burton brand were displayed several times. According to Vlaamse Regulator voor de Media (Flemish Media Regulator - VRM), this practice infringes Article 100, § 1, 3° Mediadecreet (Flemish Broadcasting Act) stating that product placement is allowed if no undue prominence is given to the products included in the programme.

According to the public broadcaster, the references to this brand and logo could not be labeled as product placement, because the broadcaster did not receive any payment or any equivalent consideration for their display. Furthermore, the public broadcaster emphasized that it did not have the intention to promote these two sponsors of the snowboarder. Finally, the public broadcaster stressed that it did its best to avoid the display of brands and logos in its programmes. Before the interview, for example, Seppe Smits was asked to take off his cap, but he refused to do so.

In order for product placement to exist, VRM had to examine whether the programme promoted the products of Red Bull and Burton. According to VRM, the positive display of brands and logos during programmes resulted in a positive attitude of the public towards these products. With this in mind, one can reasonably assume that some of the viewers of the programme will be convinced to buy these products. Hence, VRM judged that the systematic display of brands and logos during programmes promotes at least indirectly the products, services or images of these companies. Furthermore, the fact that the public broadcaster decided to do the interview with the snowboarder indicates that the broadcaster choose to display the brand and logos in exchange for this interview. In such a situation, the display of brands and logos becomes a commercial product and, thus, should be considered as a similar consideration. Given that VRM stressed that the interview with Seppe Smits should be considered as a production aid for the public broadcaster, the several displays of the Red Bull logo and the Burton brand should be labeled as product placement. The general rule is that broadcasters are allowed to include product placement in their programmes.

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However, programmes containing product placement may not give undue prominence to the product, service or brand in question. According to VRM, this means that broadcasters are allowed to exchange the display of brands or logos of the sponsors of an interviewee for an interview with that person. However, at the end of the interview with Seppe Smits, the logo and brand were displayed 35 times during a period of 200 seconds. VRM decided that the public broadcaster had violated the limits of acceptable attention that could be given to a product in a programme containing product placement. As a consequence, Red Bull and Burton had benefited from undue prominence, in breach of Article 100, §1, 3. Due to the gravity of the violation, VRM decided to impose a fine of EUR 5,000.

VRM t. VRT, Beslissing 2012/036, 17 december 2012

http://www.vlaamseregulatormedia.be/media/20732/2012-036.pdf

VRM v. VRT, Decision 2012/036, 17 December 2012

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