[DK] Reintroduction of Ban against Product Placement

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On 21 May 2013, the *Lov om ændring af lov om radio- og fjernsynsvirksomhed og lov om TV 2* (Act amending the Broadcasting Act and the Act on TV2) has been adopted. In addition to other amendments, it reintroduces the ban on product placement in Danish media.

There has always been a significant political opposition against product placement in Denmark. Even before the Directive for Audiovisual Media Services (AVMSD) was implemented into Danish law, product placement was formally banned completely. Practice, however, to some extent condoned product placement in programmes that were produced abroad.

With the implementation of the AVMSD in 2009, product placement was allowed, but only to a limited extent. Only a year later, in 2010, the rules were further liberalised so that they fully corresponded to the rules of the AVMS Directive.

Due to a political agreement reached in 2012, the rules are now again changed so that the previously existing ban is reinstated. Thus, product placement is - as a main rule of Danish audiovisual law - not allowed in programmes of Danish television or on-demand audiovisual media services. The prohibition on product placement is not considered to be contrary to the AVMS Directive as this is a minimum harmonisation Directive allowing member states to enact more detailed or stricter rules in the areas covered by the Directive.

Despite the reinstated ban, it is still possible to show programmes purchased from abroad containing product placement (except for children's programmes or news and current affairs programmes). This enables Danish broadcasters to transmit foreign programmes such as American films containing product placement. Likewise, the national public service broadcasters DR and TV 2 - who are obliged under the Danish Broadcasting Act to financially engage in the financing of films and documentaries - may still show films and documentaries produced with the financial support of national film funding even though they may include product placement. These exceptions will be determined in more detail by an executive order.

The ban on product placement does not affect the rules on product sponsorship (provision of goods or services free of charge, such as production props or prizes), which were also introduced in the course of the implementation of the AVMSD.

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Under these rules, product sponsorship having benefits of significant value are subject to the same requirements on allowable genres, informing viewers, etc., that formerly had been applied to product placement.

Another amendment is the new rule that the State-owned public service enterprise DR can no longer make use of sponsorship. Hence, DR cannot enter into sponsorship agreements with commercial companies if the sponsoring has the form of cash, etc. However, as mentioned in the previous paragraph, DR may still enter sponsorship agreements in the form of product sponsorship, i.e., where no cash is exchanged.

As there may be exceptional circumstances (such as collection shows etc.) where it might be appropriate for DR to be able to make use of programme sponsorship, the new rules authorize the Minister for Culture to issue more detailed rules regarding such exceptions.

Lov om ændring af lov om radio- og fjernsynsvirksomhed og lov om TV 2, 21/05/2013

http://www.ft.dk/samling/20121/lovforslag/l136/html_som_fremsat.htm

Act amending the Broadcasting Act and the Act on TV2, adopted on 21 May 2013

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