[BE] Flemish Media Regulator fines broadcasters for infringements of commercial communication provisions

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On 2 September 2014, the Flemish Media Regulator (*Vlaamse Regulator voor de Media*) published three decisions in which it found that two broadcasters had violated the provisions in the Flemish Media Decree that prescribe the conditions under which teleshopping, sponsoring, and advertorials may be broadcasted.

The first decision (2014/036) concerned a teleshopping programme, Jim Request Live, which was interrupted five times after less than 15 minutes. Article 82, § 1, 3° of the Flemish Media Decree, however, states that teleshopping programmes must last for at least 15 minutes before being interrupted. The broadcaster contested (not for the first time in a similar situation) the qualification of the particular programme, which invites viewers to send text messages, to post chat messages, and to request music videos, as a teleshopping programme. It argued that the chat space and text applications are mainly used to ensure interaction between the viewer and the editorial content. The regulator considered this argument but found that, notwithstanding the largely interactive character, the programme also contained a pure chat function. This chat function did not interact with the programme and consisted solely of the sale of screen space. Consequently, the regulator considered the programme to be a teleshopping programme and found that the broadcaster had violated article 82, § 1, 3°. In addition, the regulator also found that the same broadcaster had broadcast two advertorials, without them being made clearly recognisable and distinguishable from editorial content. Taking into account this violation of article 79 § 1 as well as the infringement on article 82, § 1, 3°, the regulator imposed a fine of EUR 2500.

The second decision (2014/034) involved the programme ‘Circus live’, broadcast by private broadcaster 2BE. This programme consists of a demonstration of various gambling games, which can be played through the website ‘circus.be’. Throughout the programme the presenter urges viewers to participate in the games and to register on the website. According to the regulator the qualification of ‘teleshopping’ is applicable to ‘Circus live’. Given that there is no indication, visually nor acoustically, of the fact that teleshopping is offered during the full duration of the programme, the regulator found that articles 79, § 1, and 82, § 1, 1° of the Flemish Media Decree had been violated and issues a fine of EUR 5000.

The third decision (2014/037) concerned the same broadcaster, 2BE, who broadcast a sponsorship message concerning ‘Flexium gel’ after an episode of

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'The Simpsons'. The regulator found that the message went beyond merely raising brand awareness, given the fact that the advantages of the product were being listed and emphasised by means of animated illustrations in order to convince viewers of the efficiency of the product. A violation of article 2, 41° of the Flemish Media Decree was established, but the regulator limited the consequences thereof to a warning.

VRM t. Medialaan, Beslissing 2014/036, 14 juillet 2014

http://www.vlaamseregulatormedia.be/media/24014/2014-036.pdf

VRM v. Medialaan, Decision 2014/036, 14 July 2014

VRM t. Medialaan, Beslissing 2014/034, 23 juin 2014

http://www.vlaamseregulatormedia.be/media/24022/2014-034.pdf

VRM v. Medialaan, Decision 2014/034, 23 June 2014

VRM t. Medialaan, Beslissing 2014/037, 14 juli 2014

http://www.vlaamseregulatormedia.be/media/24006/2014-037.pdf

VRM v. Medialaan, Decision 2014/037, 14 July 2014

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