[NL] Dutch Media Authority imposes a EUR 150 000 fine on public service broadcaster

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The Dutch Media Authority (Commissariaat voor de Media - CvdM), imposed a EUR 150 000 fine on NTR, an independent Dutch public service broadcaster. Each year, on the evening of 5 December, Dutch families celebrate the birthday of Saint Nicholas (Sinterklaas) with the giving of gifts. And each year, in the weeks before the festive evening, NTR airs a daily fictional news show called “Het Sinterklaasjournaal.” The show is meant for children under the age of twelve. In 2013, the broadcaster also produced and distributed wrapping paper with a Sinterklaas theme. According to the Media Authority, NTR violated the Dutch Media Act 2008 (Mediawet 2008) when they displayed the wrapping paper in the news show and on a special website.

Article 2.89 (1) (b), of the Media Act 2008, states that “avoidable media communications” (vermijdbare uitingen) are not allowed in media offerings by public service broadcasters that are meant for children under the age of twelve, with the exception of media offerings of an informative or educational character. Article 7 of the Dutch Media Decree 2008 (Mediabesluit 2008) defines “avoidable media communications” as avoidable media communications other than commercials or teleshopping spots that clearly serve to promote the sale of goods or services. Furthermore, following Article 2.132 of the Media Act 2008, public service broadcasters like NTR are only able to engage in other paid activities with the prior permission of the Media Authority. Accordingly, the NTR sought permission from the Media Authority to produce and distribute wrapping paper in the theme of Sinterklaas for wholesale trade. The Media Authority granted such permission and stressed the above rules.

However, the wrapping paper was used in the story line of “Het Sinterklaasjournaal 2013” and featured on a special website. In about twenty episodes the show devoted attention to gifts that were wrapped in the paper. Visitors of a special website devoted to “Het Sinterklaasjournaal” could order a gift wrapped in the paper. In an article on their own website, NTR itself boasted that the online action was a big hit.

The Media Authority notified the NTR of its intention to impose a fine for an alleged violation of the Media Act, but NTR maintained that it had not committed a violation. It argued that “Het Sinterklaasjournaal” is of an educational character and that the wrapping paper was only available in wholesale. Nevertheless, the

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Media Authority pointed to the gravity of the violation and stated that it attaches much value to the prevention of commercial influences on children. It imposed a EUR 150 000 fine on NTR for the violation of Article 2.89 of the Media Act. NTR objected that the fine is disproportionate in relation to proceeds from the wrapping paper. The broadcaster will appeal the decision.

Commissariaat voor de Media, oplegging bestuurlijke boete aan de stichting NTR (hierna: de NTR) vanwege handelen in strijd met artikel 2.89, eerste lid, aanhef en onder b, van de Mediawet 2008, 10 maart 2015

http://www.cvdm.nl/wp-content/uploads/2015/03/Sanctiebeschikking-Sinterklaasjournaal.pdf

Dutch Media Authority, Decision with regard to the imposition of a sanction, 10 March 2015

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