[BE] Decisions regarding infringements of sponsoring provisions

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During the past months the Flemish Media Regulator has closely supervised compliance with the requirements regarding the broadcasting of sponsoring messages laid down in Articles 90-97 of the Flemish Media Decree. In a series of decisions published at the end of March 2015, the Regulator imposed a fine of EUR 1500 on four regional broadcasters (TV Limburg, Focus TV, ATV, WTV) for infringing Article 96, paragraph 1, which states that newscasts and political information programmes cannot be sponsored. In all cases, the newscasts were accompanied by a message mentioning the clothing sponsor of the presenter or news anchor. The regulator held that providing clothing falls within the definition of sponsoring, i.e. “any contribution made by public or private undertakings, a government or natural persons not engaged in providing broadcasting services or in the production of audiovisual or auditive works, to the financing of broadcasting services or programmes with a view to promoting their name, trade mark, image, activities or products” (Article 1 (41) Flemish Media Decree). In the decision regarding TV Limburg, another violation was found related to non-compliance with the principle that sponsoring, while it may contain promotional elements, such as an image-supporting slogan, may not incite to consumption. The regulator judged that certain monitored sponsoring messages did call on consumers to visit the businesses that were featured, for instance through the use of the words “go to” and “visit”. In two other decisions of March 2015, the Flemish Media Regulator issued warnings vis-a-vis two other regional broadcasters (Ring TV, RTV) for not complying with the latter principle, based on the same reasoning. In the decision regarding Ring TV, the regulator found that the sponsoring message literally invited viewers, both in writing and orally, to discover a new car model and book a test drive during the open days of a specific car dealer. The regulator considered this invitation a specific promotional element. This was not disputed by the broadcaster.

A second set of decisions concerned a warning and three fines for infringement of the sponsoring provisions by the commercial broadcaster Medialaan. A warning was issued because a sponsor logo (accompanied by the words “with thanks to”) was shown during a montage of excerpts that appeared previously near the end of a children’s programme (K3 Kan Het!). This violated Article 97 of the Flemish Media Decree, which prohibits mentioning or showing a sponsor logo during a children’s programme. The broadcaster had argued that the logo was not shown during the programme, but rather as part of the credits at the end of the

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broadcast. The regulator was not be convinced and stressed that, especially in the eyes of the target audience, which consists of children, the programme is not finished yet when these excerpts are shown. Given that this type of infringement had never occurred before, a warning was considered sufficient. Fines (of EUR 2500, 2500 and 5000) were imposed in three cases because the sponsoring messages contained promotional elements that prompted consumption, such as the use of the word “NEW” and changes to the image of the original packaging available in shops in order to emphasise this word (advertising for chocolate confectionery) or the addition of a voice-over which describes specific benefits, a visual animation of the functioning of the product and words such as “first aid in case of muscle and joint ache” or “also in sugar-free” (advertising for medicines). In all these cases, the regulator referred to the explanatory memorandum of the Flemish Media Decree, which clarifies that a sponsor message should be limited to the mention of sponsors and must not turn into an audiovisual advertising spot.

VRM - Beslissingen

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