[SK] Complaint against TV ad on sexual nutrition product dismissed

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On 24 March 2015, the Council for Broadcasting and Retransmission of the Slovak Republic ("CBR") dismissed a complaint against a sponsorship announcement (hereinafter referred to as "credits"), which featured a nutrition product for a "stronger male erection" broadcast within the programme service of a major Slovak TV commercial broadcaster. CBR examined the credits with the existing tools for the protection of minors in media, as well as with regard to the difference between sponsorship announcements and advertising.

Both versions of the credits contained females approaching men in ordinary situations (i.e. a security guard in his booth or a hockey player at an ice ring) with the words "shhh we can...right now". Both versions ended with information about the product - with a visual "firm and fast erection" and a verbal "product to improve erections with a quick start". CBR first examined whether the credits contained any visual or acoustic information that would entitle the broadcaster to label the credits as unsuitable for minors under 15 or 18 years of age, which would prevent such content from being aired before 8 p.m. or 10 p.m. The CBR however concluded that the credits did not fulfil any criteria for such labelling. Despite its obvious sexual undertone, the credits did not contain any explicit visual or acoustic sexual content other than factual information and even the sexual implications featured in the storyline where presented in a rather light and harmless tone.

CBR also examined whether such sponsorship credits fulfilled the definition of advertising and thus qualified as a sui generis advertising spot, with the necessary implications, such as including the spot into the total time reserved for advertising in one hour and fulfilling the obligations to separate advertising from editorial content with spatial or visual and acoustic means. CBR acknowledged that the claims of a "firm and quick erection" and "...erection with a quick start" certainly carry some promotional message. CBR however also noticed that the product in question represented the high end product of a specific line of similar products of this company, where the "quick start" feature represents the difference between a basic and a high end product. This was also confirmed by the fact that the trademark registered with regard to this product contains the claim "with quick effect".

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CBR stated that these “slightly promotional” claims also served as a feature to identify the product of the sponsor. CBR therefore declared that there was not a breach of law and thus dismissed the complaint. An appeal against the CBR’s unpublished decision is not possible.

Zápisnica RVR č. 06/2015 zo dňa 24. 3. 2015

http://www.rvr.sk/sk/spravy/index.php?aktualitaId=2877

Minutes of CBR’s meeting on 24 March 2015

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