[BE] Public Broadcaster fined for violations of product placement rules

IRIS 2015-7:1/4

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The Flemish public broadcaster did not respect the conditions required to include product placement in television programmes, according to the Flemish Media Regulator. These conditions are laid down in the Flemish Media Decree, which contains a specific subsection on product placement (Productplaatsing, Articles 98 to 101). According to Article 100, paragraph 1 of this decree, programmes which contain product placement must adhere to the following requirements: 1) the content of the programme must not be influenced to such an extent as to affect the editorial independence of the broadcaster, 2) the programmes must not directly incite the purchase of certain products or services, in particular through specific recommendations thereof, 3) the product or service must not be unduly prominent, and 4) viewers must be alerted to the fact that the programme contains product placement (by means of a “PP” logo at the start and end of the programme) (see IRIS 2011-1/9).

In a first decision issued in February 2015, the Regulator imposed a fine of EUR 5000 in relation to a separately broadcasted extract (Waar eet) of a popular tourism programme (Vlaanderen Vakantieland) in which Flemish celebrities talk about their favourite restaurant in Brussels. According to the Regulator, conditions 2 and 3 (above) were not respected. The restaurants and their location were explicitly named, their exterior as well as interior was shown and these images were accompanied by exclusively favourable comments. The fact that the extract of the programme was shown separately (as a “filler” between two other programmes) also played a role, as this changed its emphasis. This lead to the conclusion that viewers were directly incited to visit the restaurants and that these were presented in an unduly prominent manner.

A second decision related to product placement in the public broadcaster’s daily soap opera Thuis. One of the scenes was located in a bridal shop. The shop location, as well as number of wedding dresses were put at the disposal of the broadcaster. However, according to the Flemish Regulator the brand (Dianna David) was displayed unduly prominently. The brand name was mentioned by the character which was about to get married and the salesperson in the bridal shop and the logo was clearly visible for a duration of 35 seconds and shown in the background a number of times. Notwithstanding the argument of the public broadcaster that serious efforts had been undertaken in order to integrate the

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brand in a reasonable manner, the Flemish Media Regulator found an infringement of Article 100, paragraph 1(3) of the Media Decree and imposed a fine of EUR 10000. The height of the fine was influenced by a similar previous violation with regard to product placement in a prime-time programme (Decision 2014-051 of 24 November 2014).

In a third decision, the Flemish Media Regulator again imposed a EUR 10000 fine with regard to the 1000th episode of a very popular cooking show (Dagelijkse Kost) shown during prime-time and attracting a large number of viewers. During the programme, in which a dish was prepared that was selected as number one among classic Flemish dishes by the public, products and devices of different brands were visible. In order to prepare the dish, a specific brand of beer was selected and praised by the chef-presenter. The beer bottles were clearly shown a number of times. A preliminary finding focused on the fact that the PP logo was not shown before and after the programme. The public broadcaster acknowledged that this should have been the case. Secondly, the Regulator was of the opinion that the manner in which the beer was recommended, by means of spoken praise, gestures and close-ups, exceeded the limits of the extent to which viewers may be urged to use the product in question. Hence, an infringement of Article 100, paragraph 1(2) and (4) was established. Again, similar previous sanctions that were imposed on the public broadcaster were taken into account in order to determine the amount of the fine.

Vlaamse Regulator voor de Media (algemene kamer), Beslissing nr. 2015/016, zaak van VRM tegen NV Vlaamse Radio- en Televisieomroeporganisatie, (dossier nr. 2015/177), 23 februari 2015

http://www.vlaamseregulatormedia.be/nl/beslissingen/2015/vrm-legt-een-boete-op-van-5000-euro-voor-het-niet-conform-de-regelgeving-uitzenden

Decision 2015-016, 23 February 2015

Vlaamse Regulator voor de Media (algemene kamer), Beslissing nr. 2015/024, zaak van VRM tegen NV Vlaamse Radio- en Televisieomroeporganisatie, (dossier nr. 2015/180), 9 maart 2015

http://www.vlaamseregulatormedia.be/nl/beslissingen/2015/vrm-legt-een-boete-op-van-10000-euro-voor-het-niet-conform-de-regelgeving

Decision 2015-024, 9 March 2015

Vlaamse Regulator voor de Media (algemene kamer), Beslissing nr. 2015/032, zaak van VRM tegen NV Vlaamse Radio- en

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Televisieomroeporganisatie, (dossier nr. 2015/186), 27 april 2015

http://www.vlaamseregulatormedia.be/nl/beslissingen/2015/vrm-legt-een-dagelijkse-kost-boete-op-van-10000-euro-voor-het-niet-conform-de

Decision 2015-032, 27 April 2015

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