[SE] Broadcaster ordered to stop broadcasting violence

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On 7 August 2015, the Swedish Chancellor of Justice (Justitiekanslern - the “CJ”) ordered the TV company C More Entertainment AB (C More) not to broadcast TV programs portraying certain kinds of violence, or any content containing detailed description of violence of a realistic nature, between 06.00 and 21.00. The order applies for one year from the decision and is subject to a conditional fine of SEK 200.000.

In 2014, C More had broadcasted two episodes of the TV series The Leftovers at 17.00 on Swedish television. One episode had included scenes in which several people kidnapped and killed a woman. The woman, who was tied to a tree, was shown in close-up when she was bleeding heavily from the head. In another episode, a woman was the victim of an assassination attempt by a man pulling a plastic bag over her head. Furthermore, the episode contained a scene in which a woman committed suicide by stabbing herself in the neck with a glass shard.

Section 5:2 Radio- och TV-lagen (The Swedish Radio- and Televisions Act - RTL) stipulates inter alia that programmes including detailed description of violence of a realistic nature which are broadcasted on television must not be transmitted during this time as there is a significant risk that children can be watching the programmes, if it is not justifiable for specific reasons.

In this case, C More admitted that the current episodes contained such violence referred to in section 5:2 RTV. C More submitted, however, that there were no grounds to impose a conditional fine, by making the following arguments: first, the broadcasts in question had ceased when the examination of the broadcasts was initiated; second, C More’s broadcasts are encrypted, which means that they are only available to paying adults, hence the TV programmes were not broadcast "in such way that there is a significant risk" that children could be watching the programmes; and third, most TV boxes have settings which enable parents to lock certain channels that are improper for children, meaning also that there was no “significant risk" that children could be watching the programmes.

The CJ considered that section 5:2 RTV applied to the broadcast since the challenged broadcast contained violence addressed by that provision. The CJ also held that the broadcasts had been shown during such time, and in such way, that there was a significant risk that children could be watching them. In this regard,

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the CJ agreed with C More that it may be relevant for the assessment of the requirement "in such way" whether a broadcast is encrypted or not. However, the CJ stated that this could not mean that a pay-TV channel with encrypted transmissions can broadcast programmes containing extreme violence at prime-time without facing a risk of breaching the RTL. The CJ pointed out that a large number of households have access to C More's selection of channels despite the broadcasts being encrypted. Because of this, the CJ considered that C More had broadcasted the series in such a way that there was a significant risk that children could be watching the programmes. The fact that most of the set-top boxes have settings which enable parents to lock certain channels that are inappropriate for children could not lead to a different assessment, according to the CJ.

Shortly before the current infringement, C More had been under a similar action regarding broadcasts containing violence. CJ considered that there were reasons to order a new action against C More, subject to a conditional fine.

Justitiekanslern meddelar ett vitesföreläggande mot ett programföretag som vid upprepade tillfällen, i strid med 5 kap. 2 § radio- och TV-lagen, sänt ingående våldsskildringar av verklighetstrogen karaktär på sådana tider och på sådant sätt att det har funnits en betydande risk för att barn kunnat se dem, 2015-08-7

http://www.jk.se/sv-SE/Beslut/Tryck-OchYttrandefrihetsarenden/2562-15-34.aspx

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