[BE] Flemish Media Regulator issues several decisions on sponsoring

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In May and June 2016, the General Chamber of the Flemish Media Regulator issued six decisions that relate to the provisions in the Flemish Media Decree on sponsorship. In five cases the Chamber concluded that an infringement had occurred (for previous decisions, see IRIS 2015-6/6).

Four of those five cases concerned a violation of Article 2 (41) of the Flemish Media Decree which contains the definition of sponsorship ("every contribution by a public or private company, the authorities, or a natural person not engaged in providing broadcasting services or producing audiovisual or audio works, to the financing of broadcasting services or programmes, with the aim of raising awareness of its name, trade mark, image, activities or products"). At issue in those decisions was the difference between a "commercial" ("reclameboodschap") and a sponsoring statement (which, according to Article 91(3°), must precede and/or follow a sponsored programme, in order to inform viewers of its sponsored nature). Although a sponsoring statement may contain promotional elements, according to the Chamber, it cannot directly encourage consumption or contain a message which directly promotes the purchase of goods or services. In two cases (2016/028, 2016/38) the sponsoring message did contain such a message, by inciting consumers to use or buy the advertisers' services or products, by means of visual and/or auditive elements (e.g. "We sell your house. No results! No costs!"; "Fancy a heartwarming bowl of soup? Liebig Délisoup. Tonight we soup."). In two other cases (2016/029; 2016/031) the Chamber also found specific promotional elements that lead the viewer to consume (e.g. "Finish off bad smells. The Swirl anti-odour pedal bin liners with special formula diminish nasty smells."; images of a woman who seems tired and regains energy by pressing a space bar on which the word "Promagnor" is visible). These cases resulted in fines (ranging from EUR 2,000 to 10,000) or a warning, depending on whether previous infringements occurred. A fifth decision also considered a potential violation of Article 2(41) but the Chamber came to the conclusion that the wording used ("If you think about cooking, you think about our cooking shop") was only mentioned auditively and was rather vague, and, hence, did not incite the viewer to consumption. No violation was found.

A final case (2016/030) concerned Article 91(2) of the Flemish Media Decree, which states that sponsored programmes must not "directly encourage listeners or viewers to buy or lease goods or services, by specifically promoting these

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goods or services". The general Chamber took into account the fact that the positive characteristics of the product in question were emphasised (e.g. "ideal to kick your sugar habit", "the same sweet taste as sugar", "you have to use much less than regular sugar"), that the product was the only ingredient that was visible for the full duration of the preparation of the recipe, and that the chef held the ingredient for a duration of fourteen seconds in a prominent manner. It concluded that Article 91(2) had been violated, and issued a warning to the broadcaster.

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/028

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/boete-vitaya-niet-conform-de-regelgeving-uitzenden-van-een-sponsorboodschap

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/028

Vlaamse Regulator voor de Media, Algemene Kamer , Decision 2016/029

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/boete-vtm-niet-conform-de-regelgeving-uitzenden-van-een-sponsorboodschap

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/029

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/030

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/specifiek-aanprijzen-rechtstreeks-aansporen-tot-aankoop-in-een-gesponsord

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/030

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/031

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/boete-sbs-belgium-vier-niet-conform-de-regelgeving-uitzenden-van-een

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/031

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/038

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/waarschuwing-voor-avs

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/038

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Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/041

http://www.vlaamseregulatormedia.be/nl/beslissingen/2016/sponsorvermelding-bolcom-geen-inbreuk-bij-een

Vlaamse Regulator voor de Media, Algemene Kamer, Decision 2016/041

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