

[NL] Media Authority imposes fine on ESPN over gambling advertising

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*Ronan Ó Fathaigh
Institute for Information Law (IViR)*

On 8 January 2024, the Dutch Media Authority (*Commissariaat voor de Media*, CvdM) issued a significant decision, imposing a fine on ESPN, a sports broadcaster, for numerous violations of the rules governing gambling advertising. This action follows the new legislation on gambling advertising coming into force in 2023 (see IRIS 2023-7/20) and previously in 2021 (see IRIS 2022-2/15). The CvdM stated that it attached “great importance” to compliance with these regulations, as they are designed to “protect minors”. Seeing advertising for gambling can lead to a “positive attitude among minors towards these products and services” and “allows young people to start gambling earlier and possibly become addicted to it”.

The decision begins by highlighting that the CvdM ‘continuously monitors compliance’ with the gambling advertising regulations. These regulations are laid down in the Media Act 2008. Advertisements for online remote gambling may not be broadcast between 06:00 and 21:00. Advertisements for other games of chance, such as lotteries, may not be broadcast between 06:00 and 19:00. The period from 1 July 2022 to 31 December 2022 saw investigations into whether advertisements for games of chance were broadcast during these restricted hours on television channels under Dutch jurisdiction, encompassing both public and commercial media institutions.

Crucially, the CvdM found that ESPN had broadcast two advertisements for remote games of chance and four for other games of chance during the prohibited times. The same violation was also involved in a previous investigation in 2021, for which ESPN received a warning. The CvdM also took this earlier warning into account when deliberating the imposition of a fine. The Commission also took into account that, given its programming, ESPN should have taken appropriate measures in advance and set up work processes to prevent these violations.

The Commission noted that ESPN indicated that various measures had now been taken to prevent future violations as much as possible. The advertisements are now labelled, so that ESPN employees are better able to recognise gambling advertisements. In the event of shifts in programming, it can therefore be checked whether the gambling advertisements shift to unauthorized times. There have also been improvements made to ESPN's internal programming system that alert operators about such shifts. The final director and the teams within ESPN

have been instructed to carefully check the gambling advertisements. The Commission took these measures into account as “fine-reducing circumstances”, and imposed a final fine of EUR 12 000 on ESPN.

Commissariaat voor de Media, Sanctiebeschikking, Kenmerk: 936550 / 957147, 8 januari 2024

<https://www.cvdm.nl/wp-content/uploads/2024/01/Sanctiebeschikking-kansspelreclame-ESPN-3.pdf>

Dutch Media Authority, Sanction Decision no 936550 / 957147, 8 January 2024

