



**42nd EPRA Meeting
Nuremberg: 28-30 October 2015**

**Yearly Working Group 2:
Audiovisual commercial communications: Trends and Challenges
Focus on product placement**

Summary of the Working Group discussion

By WG Coordinator *Johanna E. Fell*, BLM (Germany)

The working group put the focus of the debate on two issues related to product placement, namely undue prominence and thematic placement¹. Both issues present particular challenges regarding regulation as there are no clear "benchmarks" or guidelines to be found in either the AVMS Directive or the respective national legislation clarifying what constitutes "undue" prominence or a thematic placement.

Alexandra Mielle (CSA France) outlined the French experience concerning product placement which was first introduced in 2010 as a test since the CSA did not want to open Pandora's box. The test situation was reviewed in 2012 and once more in 2014. In France, less programme categories are permitted to carry product placement than in other EU member states. The CSA defined undue prominence on a case-by-case basis and has intervened eight times. The examples presented by Alexandra Mielle were analysed; participants of the working group shared the findings of the CSA concerning undue prominence as well as the view that placements increasingly are integrated into the storyline, e.g. in the example "Nos chers voisins"².

Joanna Spiteri (BA Malta) thereafter presented examples which the Broadcasting Authority had found to constitute undue prominence, and the participants of the working group reflected from their respective regulatory background on whether or not they would act in the various instances. The examples presented among other things related to games shows focusing one particular brand only, or out-of-context placements³.

Lastly, *Michael Wagner* (DLM Germany) explained the view of the German regulators concerning the placement of the "Pickup" chocolate bar in the RTL show "Dschungelcamp" which was considered to be in breach of the undue prominence ban due to both the visual and acoustic accentuation of the placement which also featured heavily in the dialogue of the participants of the camp. RTL has contested the ruling of the regulators; the case is still pending. In a subsequent placement of the

¹ See also WG's Introduction: <http://www.epra.org/attachments/nuremberg-wg2-product-placement-introduction>

² See also Alexandra Mielle's PPT Presentation: <http://www.epra.org/attachments/nuremberg-wg2-product-placement-presentation-by-alexandra-mielle-csa-france>

³ See also Joanna Spiteri's PPT Presentation: <http://www.epra.org/attachments/nuremberg-wg2-product-placement-presentation-by-joanna-spiteri-broadcasting-authority-of-malta>

same chocolate bar, the presentation was toned down considerably and felt to be in line with the provisions concerning undue prominence⁴.

It was found that product placement features prominently in certain types of life style or entertainment shows; cooking programmes appear to attract particular interest for product placements.

In the second part of the session, the working group discussed the issue of thematic placement which appears to feature more and more in content but is difficult to grasp, let alone prove. Thematic placement is understood in France to constitute the placement of an idea, theme, concept or set of values in a plot. In Malta, by contrast, the regulator defined "thematic placement" as the presentation of a particular product with all its characteristics in what is termed as thematic programme (e.g. a programme focusing on gadgets and thus giving information on a particular camera). Greece also reported on noting more and more thematic placements in programmes.

The working group coordinator will take up thematic placement as the next issue to be analysed by the members of the working group to possibly come to a clearer picture of what constitutes thematic placement and which developments are currently observed in this respect.

It was generally felt that while product placement was supposed to bring additional financial value to content producers without disrupting the advertising market in general, its use has developed in such a way that regulators might be fighting a losing battle as concerns undue prominence. One participant reflected the argument of a product placer who could not quite see the point in paying extra for placing a product in a programme which he was then not permitted to present in a prominent fashion making the extra payment worthwhile. There was also the suggestion whether the qualification "undue" for prominently placed products should possibly be dropped altogether as it appears to be difficult to regulate, and whether there should not be a review of the regulatory approach overall.

⁴ See also Michael Wagner's PPT Presentation: <http://www.epra.org/attachments/nuremberg-wg2-product-placement-presentation-by-michael-wagner-blm>