

**EPRA Dedicated Working Group on Product Placement  
Session at the 32<sup>nd</sup> EPRA meeting in Belgrade, 07 October 2010**

*Summary by Johanna Fell, BLM (DE), Coordinator of the group*

The dedicated EPRA working group on product placement met for its first session during the 32<sup>nd</sup> EPRA meeting in Belgrade on 7 October 2010. Alongside the members that had previously already communicated and co-operated via e-mail, a number of other EPRA members also attended and have since joined the working group. The meeting was chaired by Johanna Fell (coordinator of the working group).

The working group reflected on the debate of the plenary on the future of advertising regulation during the morning which had also touched upon the issue of product placement.

Update

The coordinator gave an update of the activities of the working group since its inception in June 2010 and related the status of transposition among members of the AVMS Directive as well as the respective national by-laws or similar provisions on product placement or commercial communications. Luxembourg has not transposed the Directive yet while Ofcom (UK) is currently finalizing the amendment to the Broadcasting Code concerning product placement; this is scheduled to be published in December with a likely implementation period before the rules come into force.

Apart from passing provisions for the regulation of product placement, some members have already embarked on other activities related to the topic. The VRM (BE) will hold an information session for the Flemish TV services to clarify its teleshopping and product placement policy, and will also deal with the new forms of advertising in its yearly symposium. The Belgian CSA has incorporated a thematic section on product placement on its website [www.csa.be/pp](http://www.csa.be/pp). Malta has held three seminars with the industry and production houses which have proven positive. Ofcom (UK) also conducted seminars for the industry to familiarize it with this radical change in advertising and advertising regulation.

Regarding future activities, members such as Germany or France will re-assess the application of the new provisions after given periods.

**Issues and cases discussed**

The working group discussed examples of actual or suspected product placement, starting with the "Lacoste" case which the Belgian CSA had circulated for opinion-gathering to the working group in mid-September. It was felt that this was, if at all, mostly a case of undue prominence but not not-identified product placement.

Luxembourg presented the case of the talk show "Kloertext" broadcast by RTL on 19 September 2010, in which bottles of a certain brand of mineral water were clearly visible on the table whilst not put in the focus of the camera during the show for the first time while before, only glasses of water had been provided to guests. At the end of the programme, a bottle filling approx. a quarter of the screen with a "PP" over it was immediately followed by an advertisement for the brand in question. The broadcaster argued that this was a production prop, not product placement (despite the misleading signaling). Since Luxembourg has not yet transposed the AVMS Directive yet, provisions for product placement have not yet been developed. Slovakia and the Belgian CSA drew the attention to the fact that this case could have been easily dealt with by the broadcaster in the form of sponsorship. Another member held the view that this could be seen as cross-promotion. The case also raised the issue of whether the classification of "significant value" might in some instances be undermined by (free) prop placement.

Ofcom then raised the issue of product placement in acquired news programming since some of its licensees transmit acquired live non-UK news programming that may contain product placement. The AVMS-D does not appear to have a carve-out for such types of content, and there are clearly practical difficulties for broadcasters in removing product placement in acquired live programming.

Ofcom also drew attention to the question whether product placement is permissible for single dramas which are not covered under Art. 11 (3) a) AVMS-D and, were they to be classified as films, would be subject to the ad break patterns laid down in Art. 20 AVMS-D.

AGCOM raised the issue of the distinction between light entertainment and entertainment. At the meeting of the Regulators' Group on 16 September 2010 in Brussels, Jean-Eric de Cockborne had drawn participants' attention to the fact that the distinction does not apply in every official translated version of the AVMS Directive. AGCOM felt that talk shows should not be categorized as light entertainment, and also raised the issue of infotainment.

The Belgian CSA further presented a segment of a home-improvement show about jeans furniture which at the end includes the logo of the Paris Match magazine and advises viewers that information on the manufacturers of the furniture can be found in the magazine. Members of the working group held that this could be primarily understood as an advertisement for Paris Match or at least indirect promotion of the magazine.

### **Next steps:**

The working group will get the data collection going, starting with the topic of identification. The coordinator will circulate a corresponding questionnaire summarizing the debate of the afternoon on this issue.

The working group will next discuss the issue of thematic placement.

The coordinator will prepare a check list for members to use when presenting a case or issue for debate to allow for easier assessment and more qualified comments.

The coordinator will check the options for a data base of audio and video examples which should be directly accessible to members. It should include the cases discussed by the group as well as other cases dealt with by regulators and should be divided into categories of problematic or illegal product placement, commendable product placement and cases which are not product placement at all. The data base should serve members in their daily work both within the respective regulator as well as in their liaising with broadcasters.