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Judgment of the Court in Case C-255/21 | Reti Televisive Italiane

Hourly limit for television publicity spots: promotional announcements for radio programmes broadcast on television channels belonging to the same corporate group are not, in principle, announcements about those television channels' own programmes

That is not the case where the programmes which are the subject of those promotional announcements are dissociable from the principal activity of the radio station and the television broadcaster has editorial responsibility for those programmes

Reti Televisive Italiane SpA (RTI) is an Italian company that provides audiovisual media services and is the owner of the television channels Canale 5, Italia 1 and Rete 4. In 2017, the Italian Broadcasting Authority (AGCOM) imposed penalties on RTI for a breach of national legislation which sets the limits on hourly broadcasting time for television advertising. In order to calculate that broadcasting time, AGCOM took into account the promotional announcements for the radio station R101 broadcast on the television channels owned by RTI. That radio station, like RTI, belongs to the same corporate group, Mediaset. RTI claims that the announcements for the radio station should be classified as self-promotional announcements (namely advertising announcements for its own programmes) and therefore, excluded from the calculation of the hourly television advertising time.

The Italian Council of State, before which RTI has brought an action to annul the penalties imposed upon it, asks the Court whether the concept of 'announcements broadcast on television' as regards its own programmes, which are excluded from the calculation of the 20% broadcast time for television advertising spots, also covers promotional announcements broadcast by the television channel for a radio station belonging to same corporate group ¹.

In its judgment, **the Court answers in the negative**. Radio services consisting in programmes containing sound without images, are different from audiovisual programmes provided by a television broadcaster. They therefore do not fall within the concept of 'programmes', except where they are dissociable from the principal activity of the radio station and can therefore be classified as 'audiovisual media services'. Further, to be considered the broadcaster's 'own programmes', that broadcaster must assume **editorial responsibility** for them. That consists in exercising effective control over both the selection of programmes and their schedule by a person or body having the power to make the final decision in respect of the audiovisual offer. Since the rules on the maximum time for advertising broadcasts per clock hour pursue separate objectives from those pursued by competition rules; it is the criterion of editorial responsibility for the programmes concerned that must be taken into account to understand the term 'own programmes' and not the fact that two broadcasters belong to the same corporate group.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ Article 23 of [Directive 2010/13/EU](#) of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), in the version applicable at the time of the facts and before its amendment by Directive 2018/1808: '1. The proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20%. 2. Paragraph 1 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements.'