[CH] SRG Must Pay Damages

IRIS 1998-5:1/12

Oliver Sidler
Medialex

The Swiss Radio and Television Corporation (Schweizerische Radio- und Fernsehgesellschaft - SRG), must pay 480,000 SF in damages to the manufacturers of Contra Schmerz, a proprietary pain-killer. The Federal Court (Bundesgericht) has found that the producers of the programme Kassensturz broke the law on unfair competition (Gesetz gegen den unlauteren Wettbewerb - UWG) by singling out one product as a representative target for attack.

Kassensturz was originally forbidden by court decision to mention Contra Schmerz in a filmed report on the harmful effects of certain pain-killers, in which it was used to exemplify all the others. On 20 April 1993, Swiss Television (DRS) showed the prohibited item, removing the sound and blurring the image - but added a censor's pair of scissors above and below the picture, with captions critical of the Court's decision. The Commercial Court (Handelsgericht) in Bern found that the SRG had broken the law on unfair competition and ordered it to pay 480,000 SF. in damages. The Federal Court upheld this decision in its judgment of 8 January 1998. In its judgment, the Court admittedly recognises that warnings concerning health-damaging products are in the public interest. But this does not dispense journalists from exercising proper care, and it does not justify discrimination aimed at individual manufacturers. "In order to warn against the possible dangers of a specific type of product, it is neither necessary nor appropriate to single out and name individual manufacturers or products, distinguishing them from all other products with the same characteristics; on the contrary, the aim of providing objective information is not served by giving the impression that these dangers apply to certain products only, since this can actually lead consumers to switch to other products of the same type, with the same negative characteristics".

Urteil des Schweizerischen Bundesgerichts vom 8. Januar 1998 (4C.208/1997)

Judgment of the Swiss Federal Court of 8 January 1998 (4C.208/1997)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026