[DE] surreptitious advertising - Sat.1 in trouble

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Several Länder Media Authorities in North Germany intend to complain that two items shown by the private TV station, Sat.1, in its regional magazine programme early this year violated the ban on surreptitious advertising. The relevant committees of the Bremen Land Media Authority and the Hamburg new Media Authority have passed resolutions on this subject , and the Independent Land Broadcasting Authority in Schleswig-Holstein will be taking a decision on the matter early in June. The Land Media Authority of Niedersachsen, which is currently chairing the Land Media Authorities' Joint Advertising Office, notified Sat.1 on 19 May 1998 that it intended to lodge a complaint.

The items in question, lasting several minutes, featured "Value-for-money LBS system homes" and were presented as a competition, with an architect-designed home for the winner. The "LBS hotline" number was flashed on the screen.

The Länder Media Authorities' Working Group on Advertising took the view that these items went far beyond what was acceptable in normal prize competitions. This applied to the references to "LBS" and "LBS system homes", repeated four or five times, and also to the detailed report on these "system homes", lasting over two minutes and featuring an interview with an LBS representative.

The items in question therefore constituted advertising and, not being identified as such, were calculated to mislead the public as to their real purpose.

Article 7 (5) of the Agreement between Federal States on Broadcasting (Rundfunkstaatsvertrag - RStV) in the third amended version of 26 August - 11 September 1996 is the text which applies in establishing the presence of inadmissible concealed advertising. This provision is supplemented by the Länder Media Authorities' Joint Guidelines on Advertising, to ensure separation of advertising and programme material, and on Television Sponsorship (Advertising GuidelinesWerberichtlinien) of 26 January 1993, as amended on 8 November 1994 (see report in IRIS 1998-6: 12 on the new version of 21 April 1998).

Section 7 of the Guidelines states that is to be objectively determined whether mention or portrayal of a service or similar in a programme "serves advertising purposes and can mislead the public as to its real purpose". When cash or commodities are being offered as competition prizes, the firm may be mentioned only twice, and the prize briefly described to indicate the nature of the product.

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Further advertisement-type references to the nature or quality of the prize are not permissible (Section 13 of the Guidelines).

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