[DE] Court Decides on Split-Screen Advertising

IRIS 1999-2:1/8

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On 17 December 1999, the Berlin Administrative Court (Verwaltungsgericht - VG) held the practice followed by n-tv using a crawling display simultaneously with the normal picture for advertising purposes to be admissible. Since August 1998, the private news station n-tv had started running advertising material alongside stock prices in a crawling display on the lower part of the screen. The crawl strip was separated from the main programme by a red stripe. The advertising messages were preceded by two stars and the word "advertising" plus another star and closed off by the same sequence in reverse. The competent Berlin-Brandenburg media authority saw this as offending against the requirement to separate advertising from the programme and banned this advertising format by an order applicable immediately.

The VG Berlin decided against the order, restoring suspensory effect following proceedings brought in the meantime by n-tv.

In the view of the Court, a crawling text displaying stock prices at the same time as the current programme, being a "comparable text service" within the meaning of § 2 para 2 No 3 of the Agreement between the Federal States on Media Services (Mediendienstestaatsvertrag - MDStV), is subject solely to the MDStV regulations. Even considering the separation requirement, under § 9 para 2 of the MDStV on the optical separation of advertising material, the Court had no hesitation. The Court was accordingly not of the view that the immediate juxtaposition of the broadcast programme and the media service meant that the advertising regulations of the Agreement between the Federal States on Broadcasting (Rundfunkstaatsvertrag - RfStV) were to be followed. The decision is consequently also in contradiction with the structure paper by the directors of the regional media authorities on distinguishing between broadcasting and media services (see IRIS 1999-1: 12), where it is stated inter alia that a television shopping programme (also a media service under § 2 para 2 subpara 1 of the MDStV) aired as part of the broadcasting schedule should come under the rules of the RfStV. Even if the RfStV rules were to apply in the present case, there would, in the Court's view, be no infringement of the separation rule. The Court attached no significance to the fact that the separation between the programme and the advertising was only spatial (i.e. not temporal).

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Beschluß des VG Berlin vom 17. Dezember 1998, Aktenzeichen VG 27 A 413.98.

Judgement by the VG Berlin (Administrative Court) on 17 December 1998, file No. VG 27 A 413.98.

Presseerklärung der Medienanstalt Berlin-Brandenburg.

http://www.mabb.de/aktuell/pm981117.html

Press release from the Berlin-Brandenburg Media Authority.

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