

[DE] Regional Media Authorities Complain about Split-Screen and Virtual Advertising on RTL and DSF

IRIS 1999-4:1/25

*Claudia M. Burri
Institute of European Media Law (EMR), Saarbrücken/Brussels*

Complaints procedures have been brought against both RTL and DSF concerning alleged breaches of advertising regulations.

The supervisory Lower Saxony Regional Media Authority (NLM) made a complaint about the splitting of the screen between rounds of a boxing match shown on RTL. On 27 February 1999, RTL twice split the screen between rounds of a boxing match into a large advertising window and a smaller window showing pictures of the boxing venue. According to previous interpretations of the rule on separation of advertising and programme material, set out in § 7.3.2 of the Agreement between the Federal States on Broadcasting (Rundfunkstaatsvertrag - RStV), this "split-screen advertising" is banned (see IRIS 1999-2: 6). The law states that separation between the two elements must be temporal as well as spatial. Nevertheless, the NLM also thought that a split screen was advantageous for certain sports such as boxing since the viewer was no longer totally exposed to advertising during breaks. For this reason, the regional media authorities are hoping that the subject of split-screen advertising will be dealt with as part of forthcoming discussions on advertising regulations to be included in the amended Agreement between the Federal States on Broadcasting. The regional media authorities had previously explained at the case hearing that they thought split-screen advertising should be permitted, provided it was only used during live sports broadcasts, that it was clearly marked as such and that it counted fully as part of the maximum allowed advertising time. Furthermore, the NLM demanded that RTL keeps strictly to the regulation on block advertising. RTL's regional programmes had broadcast a high number of commercial breaks on two particular days. According to § 44.2 of the Agreement between the Federal States on Broadcasting, advertising is in principal supposed to be shown in blocks between individual programmes. It may also be inserted during programmes, provided it does not interfere with the overall coherence of the programme. Commercial breaks with only one advertisement were therefore inadmissible. The regulation on block advertising stipulates that commercials should be grouped together in order to avoid an excessive number of advertising breaks.

Complaints were also made against DSF by the supervisory Bavarian Regional Council for New Media (BLM).

DSF had shown virtual advertising during a sports broadcast, although it had explained to the BLM that the advertisement had been shown without its knowledge. Virtual advertising involves "superimposing" commercial messages onto the television screen in real time, although the images do not physically exist and are invisible to television cameras. Virtual advertising is prohibited under German broadcasting law. However, the media authorities are pressing for this kind of advertising to be allowed on a small scale since current developments on the advertising market have been showing a clear trend towards computerized advertising. Furthermore, a complaint has been made that DSF infringed the ban on surreptitious advertising (§ 7.5 of the Agreement between the Federal States on Broadcasting). After broadcasting football matches, the sports channel had erected boards carrying sponsors' names on the football pitch in order to interview players or managers in front of them.

CNN has also been accused of breaking advertising regulations by interrupting its German-language-news programme with advertising. Under § 44.5 of the Agreement between the Federal States on Broadcasting, news broadcasts may only be interrupted by advertising if they are at least 30 minutes long. The media authorities recommended that CNN either remove the advertising completely or split the programme into "independent sections".

