

[DE] Case Against TV Production Company

IRIS 2001-4:1/12

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On 20 February 2001, the Niedersächsische Landesmedienanstalt für privaten Rundfunk (Lower Saxony Commercial Broadcasting Authority - NLM) instituted proceedings against TV production company Endemol and imposed a fine of DEM 100,000.

The case was brought because, in the NLM's view, there had been a breach of the ban on surreptitious advertising contained in Section 7.6.1 of the Rundfunkstaatsvertrag (Agreement between Federal States on Broadcasting - RStV) in connection with the Land media authorities' common guidelines on advertising, the separation of advertising and programme material and television sponsorship (guideline no.9), adopted on 10 February 2000. The NLM claimed that RTL's live broadcast entitled "Big Brother - der Einzug", shown on 16 September 2000, contained surreptitious advertising for a caravan manufacturer. The programme presenter had stressed how good the manufacturer was and a series of new models had been shown on-screen.

Under the 4. Rundfunkänderungsstaatsvertrag (4th Agreement between Federal States on Broadcasting - see IRIS 1999-5: 11), it is possible to take legal action against the producer of a live broadcast that contains surreptitious advertising. The Agreement includes surreptitious advertising in a list of banned practices. The NLM argued that Endemol, because of its contractual relationship with RTL, had the legal status of a commissioned body, as described in Section 9.2.2 of the Gesetz über Ordnungswidrigkeiten (Administrative Offences Act), and thus was also responsible under broadcasting law for the programme content. Endemol has appealed against the fine within the specified period. The NLM has referred the case to the Staatsanwaltschaft Hannover (Hanover public prosecutor's office), which will hear further proceedings.

