[DE] “Self-Advertising Channels” Declared Harmless

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By granting national broadcasting licences to three so-called self-advertising TV channels, the Direktorenkonferenz der Landesmedienanstalten (Conference of Directors of the Land Media Authorities - DLM) has declared that Telekom-TV, Sparkassen-TV and Bahn-TV are not in breach of German media law. While Telekom-TV and Sparkassen-TV broadcast a mixture of self-advertising programmes and material from n-tv, available only on the premises of the companies concerned and their customers, Bahn-TV is planning to show purely self-advertising content.

All three channels are classified under media law as "Customer-TV" and can therefore be licensed as "selfadvertising channels".

TV stations aimed not at a fixed circle of viewers, but at all actual or potential customers of a particular company can be licensed as "self-advertising channels" because they constitute a form of "Customer-TV". While "Business-TV", a separate category, generally falls under the national Telediestegesetz (Teleservices Act), "Customer-TV" is subject to the Rundfunkstaatsvertrag (InterState Agreement on Broadcasting - RStV) or the Mediendienstestaatsvertrag (Inter-State Agreement on Media Services - MDStV) because it targets a wider audience and often contains (third-party) advertising.

Whether such a "Customer-TV" channel is subject to the RStV or the MDStV depends on its level of journalistic relevance which, taking all relevant factors into account, is determined by its impact, topicality and capacity for provoking thought. It is only classified as a media service not needing for a licence if its programme content serves "exclusively to promote directly the sales of goods or services" and thus has "no significant impact" on the formation of public opinion.

Whether "Customer-TV" channels are classified as broadcasting or media services is important because, according to the DLM, broadcasting services must meet the requirements for so-called "self-advertising channels", as set out in Section 45b of the RStV, and the corresponding advertising regulations. At the same time, the requirements concerning advertising content contained in Sections 7.1 and 8 of the RStV also apply to this form of self-advertising. However, other advertising restrictions, such as those limiting the amount or frequency of advertising, apply only to third-party advertising where "Customer-TV" is concerned.

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