[AT] Cross Promotion Banned by Court

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According to Section 13.9 of the Bundesgesetz über den Österreichischen Rundfunk (Federal Act on the Austrian Broadcasting Corporation - ORF-Gesetz, ORF-G), advertising for radio programmes broadcast by Österreichische Rundfunk (Austrian Broadcasting CorporationORF) may not be shown on television channels operated by ORF, and vice versa, unless it concerns the contents of individual programmes.

According to the Act, which entered into force on 1 January 2002, the ban on cross promotion is designed to prevent the distortion of competition between the public service broadcaster ORF on the one hand and private broadcasters on the other; for as the broadcaster of several radio and TV channels, ORF would otherwise enjoy a considerable competitive advantage.

In mid-July 2002, Donauwelle Radio Privat Niederösterreich GmbH, a licence-holder under the Privatradiogesetz (Commercial Radio Act) and operator of "Krone Hit Radio", obtained a temporary injunction from the Handelsgericht Wien (Vienna Industrial Court), which ruled that certain advertising spots by ORF constituted illegal cross promotion and were therefore in breach of Section 1 of the Bundesgesetz gegen den unlauteren Wettbewerb (Federal Act on Unfair Competition - UWG). ORF has appealed against the temporary injunction.

Einstweilige Verfügung des Handelsgerichts Wien vom 15. Juli 2002, Aktenzeichen 37 Cg 20/02y

Temporary injunction of the Vienna Industrial Court, 15 July 2002, case no. 37 Cg 20/02y

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