[DE] MTV “Freak Show” Endangering Minors

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In two emergency rulings, the Verwaltungsgericht München (Munich Administrative Court - VG München) had to determine the degree to which the "Freak Show" programme broadcast by music channel MTV and based on the American programme "Jackass" constituted a danger to minors. The relevant supervisory body, the Bayerische Landeszentrale für neue Medien (Bavarian New Media Office - BLM), had banned the repeat showing of six programmes which had already been broadcast and were deemed to be obviously capable of seriously endangering minors. It had also restricted the showing of further episodes to the time period from 11 pm to 6 am. The decisions were declared immediately enforceable. MTV appealed and demanded that neither decision should take effect until a definitive court verdict was reached.

The VG München rejected the application concerning the time restriction, but granted the request relating to the broadcasting ban. It ruled that the programmes in question were indeed harmful but not "obviously capable of seriously endangering minors". In order to be deemed unlawful and prohibited under the terms of Article 3.1.3 of the Rundfunkstaatsvertrag (Inter-State Agreement on Broadcasting - RStV), they would have to be in the latter category. Since the programmes were likely, under Article 3.2.1 of the RStV, to endanger the physical, mental or emotional well-being of children or adolescents, the decision to restrict transmission times had been admissible. In the Court's opinion, the danger to minors lay essentially in the fact that injuring oneself and other people was portrayed as a humorous and harmless activity. Inflicting physical injuries was depicted as an end in itself and as a form of amusement. Since the "tricks" were played on people who could be easily identified, it was more likely that they would be imitated and that the value systems portrayed in the programme would also be copied. In Baden-Württemberg, one child had already injured himself seriously when imitating a scene from the "Freak Show" involving fire.

The BLM has appealed to the Bayerische Verwaltungsgerichtshof (Bavarian Administrative Court) against the decision to lift the broadcasting ban.

VG München, Beschluss vom 7. August 2002, AZ M 29 S 02.3205, und Beschluss vom 7. August 2002, AZ. M 29 S 02.3258

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