[CH] Boundary of Responsibility Between BAKOM and UBI Regarding Political Advertising

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In its decision of 11 January 2004, the Eidg. Departement für Umwelt, Verkehr, Energie und Kommunikation (Federal Department for Environment, Transport, Energy and Communication - UVEK) clarified certain issues concerning the boundary between the responsibility of the programme supervisory body and the licensing authority. The UVEK ruled that the Unabhängige Beschwerdeinstanz für Radio und Fernsehen (Independent Broadcasting Complaints Authority UBI) was responsible for examining the compatibility of advertising spots with the ban on political advertising, since this question affected key aspects of the freedom to form public opinion. However, the Bundesamt für Kommunikation (Federal Communications Office BAKOM), as the licensing authority intended by the legislator to be an administrative body, was not suitable for this task, especially since the impression of state manipulation or censorship could easily be given in this sensitive area. Once a breach of the ban on political advertising had been established by the UBI, the BAKOM could impose the necessary financial sanctions (eg confiscation of income). "This is therefore the notion of double responsibility mentioned in the established case-law of the Bundesgericht (Federal Appeal Court): the UBI and BAKOM are responsible for the same case, but not for dealing with the same issues. [...] Double responsibility is therefore not to be understood as parallel, but as supplementary, additional responsibility."

Entscheid des UVEK vom 11. Januar 2004 (519.1-177)

Decision of the UVEK, 11 January 2004 (519.1-177)

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