[AT] Administrative Court Extends Football Short Reporting Rights

IRIS 2006-3:1/14

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In 2004, pay-TV broadcaster *Premiere* acquired the exclusive rights to cover the T-Mobile-Bundesliga. Austrian commercial TV company ATV+ subsequently purchased the secondary exploitation rights. The *Bundeskommunikationssenat* (Federal Communications Office) granted to *Österreichische Rundfunk* (ORF) the right to broadcast one short 90-second report on each match day (see IRIS 2005-1: 7).

Both *ORF* and *ATV+* complained to the *Verfassungsgerichtshof* (Constitutional Court) about this decision. The Court threw out both complaints on the grounds that there was little prospect of them being upheld (see IRIS 2005-7: 8).

The case was then taken to the *Verwaltungsgerichtshof* (Administrative Court), which has now basically upheld ORF's appeal and decided that it should be allowed to broadcast 90-second reports on each Bundesliga match. Its decision was based on the ground that each individual T-Mobile-Bundesliga football match should be considered as an "event" in the sense of the *Fernseh-Exklusivrechtegesetz* (Exclusive Television Rights Act). The Court referred to Recommendation No. R (91) 5 of the Committee of Ministers of the Council of Europe on the right to short reporting of major events. Its interpretation means that, with five matches per match day, the permitted length of short reporting is multiplied by five.

The Administrative Court also decided that only a TV company subject to Austrian law can be obliged to grant the right to short reporting.

As a result of this verdict, the *Bundeskommunikationssenat* will have to issue a new decision, laying down new conditions for short reporting rights. Under its contract, ATV+ is only allowed to broadcast reports on the day's football matches after 10 pm. The broadcaster fears that the *Bundeskommunikationssenat* could, as previously, allow ORF to broadcast its reports much earlier. This would reduce the value of the secondary exploitation rights purchased by *ATV+* .

Entscheidung des Verwaltungsgerichtshof vom 20. Dezember 2005, 2004/04/0199

http://www.vwgh.gv.at/Content.Node/de/presse/pressemitteilungen/2006/2004_04_

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Decision of the Verwaltungsgerichtshof (Administrative Court) of 20 December 2005, 2004/04/0199

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