[DE] Ruling on Surreptitious Advertising Breach

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In a ruling of 11 December 2008 (case no. VG 27 A 132.08), the *Verwaltungsgericht Berlin* (Berlin Administrative Court - VG) upheld a complaint lodged by the *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg media authority - mabb) against the private broadcaster ProSieben for a breach of the ban on surreptitious advertising enshrined in Art. 7 para. 6 sentence 1 of the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement - RStV).

The complaint concerned episodes of the programme "TV total Wok-WM" broadcast in 2006 and 2007, particularly various visual and verbal references to brand names and logos (see IRIS 2008-7: 9).

The VG decided that, although another production company had been involved in making the programme, the broadcaster still had some influence and the right to participate in decision-making under the terms of the licensing agreement. This was sufficient to draw the necessary conclusion that the broadcaster had intended to advertise. Contrary to the broadcaster's argument, Wok-WM was not comparable to other sports events at which perimeter advertising and team sponsorship was normal, partly because this took place regardless of the television broadcast. This was not, therefore, a case of so-called "intrusive advertising", which was permitted by law.

Pressemitteilung des VG Berlin

http://www.berlin.de/sen/justiz/gerichte/vg/presse/archiv/20081212.1350.116695.html

Press release of the Berlin Administrative Court

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