[AT] BKS Rules on Distinction between "Reminders" and "Advertising Dividers"

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In a decision issued at the end of 2008, the *Bundeskommunikationssenat* (Federal Communication Senate - BKS) stated that *Österreichische Rundfunk* (the Austrian public broadcasting corporation - ORF) had violated the rules on the labelling of TV advertising and the separation of programme and advertising content.

The BKS ruling concerned ORF programmes broadcast on its ORF 2 channel and was based on the following findings. On 28 July 2008, ORF broadcast a programme announcement with the ORF 2 corporate design followed by an "advertising divider", also with the ORF 2 corporate design but without any separation element, at the end of which the word "*Werbung*" (advertising) was displayed. Both elements were accompanied by music. Two advertising spots were then broadcast, followed by a "reminder" with the ORF corporate design which, because of elements such as the display of the word "*Werbung*" with the ORF 2 design, was, to a large extent, visually identical to the aforementioned "advertising divider". The "reminder" was accompanied by different music from the "advertising divider". The "reminder" was immediately followed by another advertising spot, which in turn was followed by the ORF 2 programme signal.

The BKS thought that advertising and programme content had not been separated clearly enough: "An element that is added by the broadcaster as a "divider" between programme content and advertising becomes ambiguous if it is also broadcast in the same or a similar form between individual advertising spots. (...) If this is the case, the viewer is more or less obliged to check after every item whether it means the advertising block has finished or whether the advertising is continuing." In this case, the BKS concluded that the "advertising divider" and the "reminder" were so similar that any differences would not be spotted by the average viewer, even though different music was played and the "reminder" also included the word "*Werbung*".

Entscheidung des BKS (GZ 611.009/0021-BKS/2008)

http://www.bka.gv.at/DocView.axd?CobId=32791

Ruling of the BKS (GZ 611.009/0021-BKS/2008)

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