[DE] RLP.TV GbR Denied Broadcasting Licence

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In a ruling of 21 December 2010, the Verwaltungsgericht Neustadt (Neustadt administrative court - VG) decided that RLP.TV GbR was not entitled to a broadcasting licence.

In May 2009, the Landeszentrale für Medien und Kommunikation (regional media and communications authority - LMK) of Rhineland-Palatinate had invited tenders from analogue cable TV channels wishing to provide regional television channels. In November 2009, it awarded Gutenberg.TV the licence to broadcast a TV channel with a regional and local focus in Vorder- and Westpfalz and in Rheinhessen. It rejected the bid by competitor RLP.TV GbR on the grounds that it would have operated “exclusively as an advertising vehicle” and not as the actual broadcaster. A successor company in the form of a partnership or joint-stock company would have been set up for this purpose. The Landesmediengesetz (Regional Media Act - LMG) of Rhineland-Palatinate did not allow a broadcasting licence with a frequency allocation to be transferred. Due to the lack of concrete information, the future company’s suitability for a licence could not be verified. RLP.TV GbR appealed against the LMK’s decision, arguing, inter alia, that its company’s legal representatives would be identical after the licence and frequency were allocated.

The VG Neustadt rejected the appeal by RLP.TV GbR. According to the LMG, only the individual or legal entity, or the association of legal entities that actually intended to organise broadcasting could apply for a broadcasting licence. Under Article 24(1)(1) LMG, licences could only be awarded to the broadcasters themselves. The LMG was therefore based on the notion that the licence applicant was identical to the actual broadcaster. An application by a “vehicle company” was fundamentally inadmissible. There needed to be an inextricable connection between eligibility for a licence and the subsequent organisation of broadcasting. In this case, the future company could not be awarded a licence because its actual form and internal structure were unknown.

Beschluss des VG Neustadt vom 21. Dezember 2010 (Az. 6 K 1371/09.NW)

http://www3.justiz.rlp.de/rechtspr/DisplayUrteil.asp?rowguid={902E9BE3-352F-4FA0-9A57-0C0C3235BC22}

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Decision of the Neustadt administrative court, 21 December 2010 (case no. 6 K 1371/09.NW)

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