[DE] ZAK Complains that Programme Breached Ban on Public Advertising for Gambling Services

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On 14 September 2011, the Kommission für Zulassung und Aufsicht der Landesmedienanstalten (Media Licensing and Monitoring Commission - ZAK) filed a complaint that the "Show zum Tag des Glücks", broadcast on 25 April 2011 by TV broadcaster "Das Vierte", infringed the Glücksspielstaatsvertrag (Interstate Gambling Agreement - GlüStV), and prohibited a repeat broadcast.

During the programme, the participants of which had to have bought a ticket for the Süddeutsche Klassenlotterie (South German lottery - SKL), the lottery's logo was repeatedly shown. The ZAK also considered that extensive references to the SKL had been made by the programme's presenter. The ZAK deemed this to be evidence of the commercial nature of the programme, which therefore violated the ban on public advertising for gambling services enshrined in Article 5(3) GlüStV.

In its defence, the broadcaster had referred to the recent judgments of the Court of Justice of the European Union (ECJ) on gambling activities (judgments of 8 September 2010, C-316/07, C-358/07 to C-360/07, C-409/07, C-410/07 and C-46/08), arguing that, on this basis, the ban on advertising enshrined in the GlüStV was inapplicable.

In response, the ZAK argued that these ECJ judgments only concerned the state monopoly on sports betting and its effects on the fundamental freedoms enshrined in EU law. It claimed that the validity of the ban on advertising in the GlüStV was not affected by the ECJ's case law.

The ZAK therefore echoed previous decisions of the Landesmedienanstalten (Land media authorities) concerning television programmes based on state lotteries, including the decision of the Niedersächsische Landesmedienanstalt (Lower Saxony media authority) to file a complaint in July 2008 following the broadcast of the "5-Millionen-SKL-Show" by the broadcaster RTL.

ZAK-Pressemitteilung 18/2011 vom 14. September 2011, „Show zum Tag des Glücks" bei Das Vierte beanstandet - Wiederholung untersagt

http://www.die-medienanstalten.de/pressecenter/pressemitteilungen/detailansicht/article/zak-

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pressemitteilung-182011-show-zum-tag-des-gluecks-bei-das-vierte-beanstandet-wiederho.html

ZAK press release 18/2011 of 14 September 2011, Complaint filed against “Show zum Tag des Glücks” on “Das Vierte” - repeat prohibited

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