[DE] RTL plus Deutschland loses in court

IRIS 1996-10:1/15

Mario Heckel
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 22 August 1996, the Hannover District Court imposed a fine of more than 20 million DM (which is unusually high for Germany) on the television station, RTL plus Deutschland .

RTL, licensed in the Land of Niedersachsen (Lower Saxony) to broadcast a full (i.e., not specilizing in a particular type of) television programme covering Niedersachsen and the rest of the country, had shown 34 television films, nearly all of them interrupted by four commercial breaks, between October 1993 and June 1994. The court found that the films had been shown under a general title (Der grosse TV-Roman), had separate plots and no content links with one another, and had been made in different countries by different producers, using different actors. Depending on content, sub-titles (Familienschicksale (Family Fortunes), Schicksalhafte Begegnungen (Fateful Meetings)) had been used to group them.

RTL argued that the films shown were not cinema or television films, but a "series" within the meaning of Article 26, para. 4 of the Agreement on Broadcasting between the Federal States in United Germany, and that this allowed it to insert a commercial break every twenty minutes (cf. Article 26, para. 3, sentence 2 of the Agreement). The court held, on the other hand, that a "series" (unlike a serial, for example) comprised by definition a limited number of episodes or a number of stories which were separate, but featured the same characters; the films shown in this case, however, were wholly unconnected in terms of content or plot. They were thus cinema or television films, and might accordingly be interrupted for three commercial breaks if their basic showing time exceeded 110 minutes, two if it was less (Article 26, para. 4 of the Agreement on Broadcasting between the Federal States in United Germany, Section 33 (7) of the Niedersachsen Broadcasting Act). The insertion of additional commercial breaks violated the legal restrictions on private commercial television advertising and was punishable by a fine. In its judgment, the court applied the full forfeiture rule embodied in Section 29a (4) of the Ordnungswidrigkeitengesetz (Regulatory Offences Act). This allows a court to confiscate all profits resulting from an offence punishable by fine, when the maximum permissible fine does not exhaust them.

The sum of over 20 million DM forfeited by RTL in this case corresponds to its total income on the commercial breaks which, in the court's view, exceeded the lawful quota.

© European Audiovisual Observatory (Council of Europe) 2026

RTL has appealed to the Court of Appeal in Celle.

In a decision given in independent administrative proceedings in 1993, the authority responsible for supervising private broadcasting in Niedersachsen, the Land Broadcasting Commission (predecessor of the present Land Media Authority), forbade RTL to engage in the above practice. The main administrative court proceedings in this case have not yet been concluded.

Amtsgericht Hannover, Urteil v. 22. August 1996, Geschäfts-Nr.: 265-441/95, OWi 23 Js 44458/95.

District Court of Hannover, judgment of 22 August 1996, No. 265-441/95, Owi 23 Js 44458/95.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026