[DE] Neustadt Administrative Court Extends Admissible Prominence of Product Placement

IRIS 2013-2:1/17

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In a ruling of 17 December 2012 (case no. 5 K 1128/11.NW), which is yet to be published, the Verwaltungsgericht Neustadt an der Weinstraße (Neustadt an der Weinstraße Administrative Court - VG) upheld the appeal by the TV broadcaster Sat.1 against a decision of the Landesmedienanstalt Rheinland-Pfalz (Rhineland-Palatinate media authority - LMK) concerning unlawful product placement.

The Kommission für Zulassung und Aufsicht (Licensing and Monitoring Commission - ZAK), a joint body created by the Landesmedienanstalten (regional media authorities) to monitor the media at national level, had found the broadcaster guilty of violating Articles 44 and 7(7)(2)(3) of the Staatsvertrag für Rundfunk und Telemedien (Inter-State Broadcasting and Telemedia Agreement), under which product placement must not “give excessive prominence” to the product concerned.

Referring to this decision, the LMK lodged a complaint about the broadcast of a Europa League match on Sat.1. Although the use of product placement had been mentioned in accordance with Article 7(7)(3) RStV, the programme had twice switched to the so-called “Hasseröder Männercamp”. According to the ZAK, the presenter and an expert had repeatedly made positive comments about “Hasseröder” beer. The beer company’s logo had also been visible many times on beer bottles and other objects in the studio, for which there had been no editorial justification.

The VG Neustadt held a different view: in its opinion, product placements could be clearly visible during a programme even if the showing or naming of the products was avoidable. Unlawful “excessive” prominence was only given if the product placement was the single dominating element, to the extent that the actual programme content was no longer recognisable.

However, the disputed switch to the “Hasseröder Männercamp” had formed part of the concept of the sports broadcast. The product placement had not been unjustifiably conspicuous. The TV broadcaster had therefore not breached the aforementioned provisions of the RStV on product placement.

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Urteil des Verwaltungsgerichts Neustadt an der Weinstraße vom 17. Dezember 2012 (Az. 5 K 1128/11.NW)

Decision of the Neustadt an der Weinstraße Administrative Court, 17 December 2012 (case no. 5 K 1128/11.NW)

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