[DE] Rhineland-Palatinate Administrative Court of Appeal Finds “Hasseröder Männercamp” Product Placement Inadmissible

IRIS 2013-10:1/14

Peter Matzneller
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a ruling of 22 August 2013 (case no. 2 A 10002/13.OVG), the Oberverwaltungsgericht Rheinland-Pfalz (Rhineland-Palatinate Administrative Court of Appeal - OVG) decided that the depiction of a brand of beer before and during the live broadcast of a football match on the Sat.1 television channel had constituted unlawful product placement in the sense of Article 7(7)(3) of the Rundfunkstaatsvertrag (Inter-State Broadcasting Agreement - RStV).

During the broadcast of a UEFA Europa League match, in which the use of product placement had been mentioned, TV broadcaster Sat.1 had twice switched to the so-called “Hasseröder Männercamp”. During subsequent conversations between the presenter and an expert (a former football manager), “Hasseröder” beer had been mentioned repeatedly. The brewery’s logo had also been visible many times on beer bottles and other objects in the studio.

As the lower-instance court, the Verwaltungsgericht Neustadt an der Weinstraße (Neustadt an der Weinstraße Administrative Court) had found the product placement admissible in this case (see IRIS 2013-2/17).

However, the OVG disagreed, ruling that the beer brand had been given excessive prominence during the broadcast. A product was given “excessive” prominence in the sense of Article 7(7)(3) RStV if, depending on its type, frequency or duration, its placement could not be justified by the programme’s editorial requirements or the need to portray reality.

In the OVG’s opinion, the pre- and post-match interviews with the expert had not, in themselves, been linked to the presentation of the brewery’s products. Since it had been a deliberate editorial ploy to bring the expert out of a so-called “men’s evening” in order to interview him, the inclusion of beer bottles or isolated sweatshirts with the relevant logo could have been justified. However, the “men’s evening” scenario could not justify the extensive presence of the brewery logo on beer bottles that had clearly been deliberately placed, sweatshirts, beer glasses, a wall visible in the background and an ice bucket.

The court added that the plaintiff could not legitimately claim that the “Männercamp” (men’s camp) organised by the brewery had been a real-life

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event. It had been an artificially created event deliberately devised for advertising purposes and could not therefore be considered a vehicle for admissible product placement. In this respect, the OVG made it clear that broadcasters and advertisers could not themselves create “reality” in a way that justified product placement in order to circumvent legislative provisions designed to limit the effects of advertising.

Pressemitteilung des Oberverwaltungsgerichts Rheinland-Pfalz zum Urteil vom 22. August 2013

http://www.mjv.rlp.de/icc/justiz/nav/704/broker.jsp?uMen=7047a075-9880-11d4-a735-0050045687ab&uCon=0ac1328a-8442-1416-cf2b-e71077fe9e30&uTem=aaaaaaaa-aaaa-aaaa-aaaa-000000000042

Press release of the Rhineland-Palatinate Administrative Court of Appeal on the ruling of 22 August 2013

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