[DE] Berlin Administrative Court Bans Regional Advertising on National Channel

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In a ruling of 26 September 2013 (case no. VG 27 K 231.12), the *Verwaltungsgericht Berlin* (Berlin Administrative Court - VG) decided that a broadcaster licensed to broadcast programmes nationwide was not permitted to replace the advertising on its channel with different regional advertisements. This was not covered by the national broadcasting licence under the terms of Article 20a of the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement).

Television broadcaster ProSieben instigated the proceedings against the *Medienanstalt Berlin-Brandenburg* (Berlin-Brandenburg media authority - mabb), which had prohibited the broadcaster from replacing individual advertising spots with regional spots in order to acquire new advertising customers, particularly companies with regional distribution areas or sales structures. According to ProSieben, the broadcast of different regional advertising windows was covered by the national broadcasting licence granted by the mabb. If not, the broadcaster would be entitled to a corresponding extension of its licence.

The VG Berlin rejected the claim. ProSieben’s plan to broadcast separate advertising was not covered by the national broadcasting licence, which only entitled the holder to broadcast the same TV channel throughout the country via satellite. Different regional advertising windows, however, would not constitute the same TV channel, since they would only be broadcast within individual *Bundesländer* or regions. According to the court, ProSieben could not base its case on the fact that public service broadcaster ARD broadcast regional advertising, since the ARD held a completely different type of licence. The broadcaster had no right to a corresponding extension of its broadcasting licence because there were no relevant legal grounds.

Pressemitteilung des Verwaltungsgerichts Berlin

http://www.berlin.de/sen/justiz/gerichte/vg/presse/archiv/20130927.1015.389801.html

Press release of the Berlin Administrative Court

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